

CITY OF GLUCKSTADT, MISSISSIPPI
OFFICIAL PUBLIC RECORDS POLICY

This Public Record Policy is drafted and published in compliance with the Mississippi Public Records Act of 1983, Section 25-61-1 thru 25-61-17, Mississippi Code of 1972.

It shall be the policy of the City of Gluckstadt (herein referred to as the "City") that the following procedures and implementation of the referenced act are hereby and herein adopted and shall be complied with by the City and by any person exercising the right to inspect, copy, mechanically reproduce, and or obtain a reproduction, whether in paper or electronic form, of any public record held and or controlled by the City.

I. Authority and Purpose

- 1.1 "It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records." Section 25-61-1, Miss. Code of 1972.
- 1.2 "[A]ll public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body." Section 25-61-5, Miss. Code of 1972.
- 1.3 The act defines "public record" to include any "all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body." Section 25-61-3(b).
- 1.4 The purpose of this policy is to establish the procedures the City will follow in order to provide full access to public records. This policy provides information to persons wishing to request access to public records of the City and establish processes for both requestors and the City staff that are designed to best assist members of the public in obtaining such access.
- 1.5 The purpose of the act is to provide the public full access to public records concerning the conduct of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the City will be guided by the provisions of the act describing its purposes and interpretation.

II. Public Body Contact Information & Public Records Officer

- 2.1 **Contact for Public Records Requests.** Gluckstadt City Hall is located at 343 Distribution Drive, Madison, MS 39110. The City's mailing address is P. O. Box 2210, Madison, MS

39130. The telephone number is (769) 567-2306 and the facsimile number is (769) 567-2305. The email address for records request submissions is records@gluckstadt.net and our web address is www.gluckstadt.net.

- 2.2 **Public Records Officer, Training.** A public records officer shall be designated by the City and shall undergo annual training by the Miss. Ethics Commission on the Miss. Public Records Act (including possible legislative updates amending the act), as well as have knowledge of applicable records retention policies and/or schedules. The public records officer shall oversee compliance by City departments and City employees with the act, while also serving as a resource to City departments concerning public records questions or issues which may arise. Any person wishing to request access to public records of the City or seeking assistance in making such a request should contact the public records officer of the City by addressing the request to the "Public Records Officer, City of Gluckstadt." The email subject line or cover sheet of a written request should include the phrase "Request for Public Records." Information is also available at the City's website listed above.
- 2.3 **Departmental Employees, Designee, Training.** Although the City's public records officer may oversee compliance with the act, another department, department head or staff member may be required to assist in the fulfillment of a public records request, depending on the nature of the records requested. Therefore, department heads shall appoint a public records "designee" to assist with public records requests or related issues which may arise from time to time within their administration; this designee shall comply with this adopted public records policy and the Miss. Public Records Act, providing "full assistance" to requestors seeking public documents under the department's purview, while working with the City's public records officer to provide a timely response; the designee will also safeguard public records within the department and ensure they are protected from damage or disorganization; the designee will prevent production of public records requests from causing excessive interference with essential functions of the department's day-to-day operations; additionally, the "designee" must undergo annual training on the Miss. Public Records Act (including possible legislative updates amending the act), and have knowledge of applicable records retention policies and/or schedules; training will be provided by the City's public records officer, or the City Attorney.

III. Availability of Public Records

- 3.1 **Hours for Inspection of Records.** Public records are available for inspection and copying during normal business hours of the City of Gluckstadt, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at City Hall. The time, place, manner of inspection and copying of records will not be allowed to interfere with other essential duties of the City's day-to-day operations.
- 3.2 **Organization of Records.** The City, departments and employees will maintain records in a reasonably organized manner. The City will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original City records from City Hall.

- 3.3 **Public Information via Website.** A variety of records are available on the City’s website. Requestors are encouraged to view the documents available on the website prior to submitting a formal records request. In some instances, the publication of records to the City’s website may satisfy the City’s obligations under the Miss. Public Records Act; any requestor that is seeking duplicative information already provided online will be directed to the City’s website.

IV. Public Records Request Instructions

- 4.1 Any person wishing to inspect or copy public records of the City should make the request in writing on the appropriate public records request form (Form “COG-PR-140” provided by the City). The City’s public records form is available at City Hall and online at the City’s website. Once completed, the form shall be hand-delivered, placed in the mail, or emailed in accordance with the instructions listed above, to the attention of the public records officer; the following information is required to be completed, in order to process the request:
- Full name of requestor;
 - Mailing address of requestor;
 - Current telephone number and e-mail address of requestor;
 - An accurate description sufficient for identification of the public records; must be adequate for the public records officer or designee to locate the records; and
 - The date and time of day of the request.
- 4.2 If the requestor wishes to have copies of the records made, instead of simply inspecting them, he or she should so indicate on the form and make arrangements to pay for copies of the records or a submit a deposit. Pursuant to the Model Public Records Rules of the Mississippi Ethics Commission, standard photocopies will be provided at fifteen (15¢) cents per page.

Important: All public records requests must be made in writing on Form **COG-PR-140**, provided by the City, in accordance with the instructions outlined herein. Please find attached as an exhibit to this policy. No verbal or telephonic requests will be accepted.

V. Processing of Public Records Requests – General

- 5.1 **Providing Access.** The City acknowledges that “providing access to public records is a duty” and that “any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record” in accordance with these policies. Sections 25-61-1 and 25-61-5. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.
- 5.2 **Acknowledging Receipt of Request.** Within seven business days of receipt of the request, the public records officer will do one, or more, of the following:
- Make the records available for inspection or copying;

- If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- Provide a reasonable estimate of when records will be available; or
- If the public body needs additional time to fulfill a request, a written explanation will be provided to the requestor specifying the reasons for the delay and notifying the requestor that production will occur within fourteen business days from the date of receipt of the initial request, excluding legal holidays. Section 25-61-5(b); or
- If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone or email. The public records officer or designee may revise the estimate of when records will be available; or
- Deny the request.

5.3 **Consequences of Failure to Respond.** If the City does not respond within seven business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond and to ensure the City received the original request. In the event the City is unable to produce the records within seven business days or needs additional time, the City will notify the requestor in writing of the delay and specify the reasons for the delay. The public records officer will work with the requestor to ensure documents are produced no later than fourteen business days from the date of the initial request, excluding legal holidays. Section 25-61-5(b).

5.4 **Protecting Rights of Others.** In the event that the requested records contain information that may affect rights of others, and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, to seek a protective order from a court to prevent or limit the disclosure. The notice to the affected persons will be provided within five business days of receipt of the request and shall include a copy of the request.

5.5 **Records Exempt from Disclosure.** Some records are exempt from disclosure, in whole or in part. If the City believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record, or a portion of the record, is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

Important: In some instances, the City Attorney's office may be asked to review documents for exemptions and/or redactions at a legal hourly rate; the billable hours for attorney review will be included in the cost estimate provided to the requestor.

5.6 **Inspection of records.** Consistent with other demands, the City shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the public body to copy.

The requestor must claim or review the assembled records within thirty days of the City's notification to him or her that the records are available for inspection or copying. The City will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the public body to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the City may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

- 5.7 **Providing Copies of Records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying in accordance with this public records policy; the fees for hard copies are provided herein.
- 5.8 **Providing Records in Installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.
- 5.9 **Completion of Inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the City has completed a diligent search for the requested records and made any located non-exempt records available for inspection.
- 5.10 **Closing a Withdrawn or Abandoned Request.** When the requestor either withdraws the request, fails to fulfill his or her obligations to inspect the records, pay the deposit or final payment for the requested copies, the public records officer will use their discretion to administratively close the request. In the event of closure, the public records officer will notify the requestor in writing.
- 5.11 **Later discovered documents.** If, after the City has informed the requestor that it has provided all available records, the City becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

VI. Processing of Public Records Requests – Electronic Records

- 6.1 **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.
- 6.2 **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the non-exempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record. Fees for some electronic records may apply (see below).

- 6.3 Customized access to data bases.** With the consent of the requestor, the City may provide customized access if the record is not reasonably locatable, or not reasonably translatable, into the format requested. The City may charge the actual cost for such customized access.

VII. Exemptions

- 7.1 Exemptions from disclosure.** The Public Records Act, as well as other statutes and court decisions, provide that several types of documents are exempt from public inspection and copying. In addition, other statutes, or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of exemptions within and outside of the Public Records Act, that restrict the availability of some documents held by City for inspection and copying. Examples may include, but are not limited to, personnel records, some law enforcement records, attorney work product, trade secrets, etc.

EXEMPTIONS AND THIRD PARTY INFORMATION

RULE 6, MISS. MODEL PUBLIC RECORD RULES, MISS. ETHICS COMMISSION

Exemptions.

The Public Records Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by (name of public body) for inspection and copying:

- Academic records exempt from public access, see § 37-11-51.
- Appraisal records exempt from access, see § 31-1-27.
- Archaeological records exempt from public access, see § 39-7-41.
- Attorney work product, examination, exemption, see § 25-1-102.
- Birth Defects Registry, see § 41-21-205.
- Bureau of vital statistics, access to records, see § 41-57-2.
- Charitable organizations, registration information, exemption from public access, see § 79- 11-527.
- Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.
- Confidentiality, ambulatory surgical facilities, see § 41-75-19.
- Defendants likely to flee or physically harm themselves or others, see § 41- 32-7.
- Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.
- Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.
- Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.

- Insurance and insurance companies, risk based capital level requirements, reports, see § 83- 5-415.
- Judicial records, public access, exemption, see § 9-1-38.
- Jury records exempt from public records provisions, see § 13-5-97.
- Licensure application and examination records. exemption from Public Records Act, see § 73-52-1.
- Medical examiner, records and reports, see § 41-61-63.
- Personnel files exempt from examination, see § 25-1-100.
- Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.
- Workers' compensation, access to records, see § 71-3-66.
- Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

VIII. Third Party Information

8.1 **Third party information & right to seek a protective order.** When any person files or submits documents with the City which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

Any document filed with the City which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the City shall notify the person who filed the document within 5 business days. Twenty-one (21) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential, on or before the date expiration of the twenty-one-day time period, pursuant to Section 25-61-9, Miss. Code of 1972.

Important: Any person filing documents with the City shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The City shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the City bear any responsibility for a filer's failure to redact such information which leads to, or may lead to identity theft, other crime, or loss.

IX. Costs of Providing Public Records

9.1 **Costs for paper copies.** Section 25-61-7(1), Miss. Code of 1972, reads as follows: “Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records.”

A requestor may obtain standard black and white photocopies for fifteen cents (15¢) per page. Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs of a previous installment before providing a subsequent installment. The City will not charge sales tax when it makes copies of public records.

9.2 **Costs for electronic records.** The cost of electronic copies of records shall be one dollar (\$1) per disk for information on a CD-ROM. The cost of scanning existing City paper or other non-electronic records is five cents (5¢) per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee or system costs allowed under Section 25-61-7(2), Miss. Code of 1972.

9.3 **Costs of mailing.** The City may also charge actual costs of mailing, including the cost of envelopes, packaging & required postage (adjusted postage rate at the time of request).

9.4 **Cost Estimate & Payment.** A cost estimate will be provided to the requestor in advance of processing and/or beginning work on the request. Payment will be accepted by cash, certified check, or money order, made payable to the “City of Gluckstadt.” No credit cards, debit cards, or personal checks will be accepted.

9.5 **Charges for searching, reviewing, and redacting.** The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid city employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

Important: The City of Gluckstadt requires that a deposit payment is made in advance of processing and/or beginning work on a public records request; all costs associated with the request must be paid by the requestor before final copies or access is provided to the requested records. The decision to charge or waive fees for a public records request is at the discretion of the public records officer (or designee) and will be considered on a case-by-case basis.

X. Review of Denials of Public Records

10.1 **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition must include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request. Additionally, the petition must provide a detailed explanation as to why the requestor believes the documents are not exempt from disclosure, including any authority, statutory or otherwise, relied upon as the basis for the appeal.

- 10.2 **Consideration of petition for review.** The Mayor and City Attorney will immediately consider the petition and either affirm or reverse the denial within five business days following the City's receipt of the petition, or within such other time as the Mayor / City Attorney and the requestor mutually agree.
- 10.3 **Public Records Disputes & Review by the Mississippi Ethics Commission.** Pursuant to Section 25-61-13, if the public records officer or other staff of the City denies a requestor access to public records and the requestor believes the denial, the decision of an administrative appeal, to be improper, the requestor may ask the Mississippi Ethics Commission to review and/or intervene in the matter.


 WALTER C. MORRISON, IV
 MAYOR

We the undersigned Aldermen acknowledge that this public records policy was adopted by the board on the 7th day of December, 2021.

Alderwoman Bates Miya Bates
 Alderman Powell Payge Powell
 Alderman Slay Will Slay
 Alderman Taylor John Taylor
 Alderwoman Williams Ashley Williams

ATTEST:

DATE:

Lindsay Kellum 12/7/21
 LINDSAY D. KELLUM
 CITY CLERK

