



RESOLUTION NO. 2023-14

ADOPTING PUBLIC RECORDS POLICY

WHEREAS, Section 36-12-40, 1975 Alabama Code, states that every citizen has a right to inspect and take a copy of any public writing, except for (1) registration and circulation records and information concerning the use of public libraries (except for a parent inspecting the records of his or her child); (2) records concerning security plans, procedures, assessments, measures or systems, and any other records relating to or having an impact upon the security or safety of persons, structures, facilities, or other infrastructures including critical infrastructure and critical energy infrastructure, whose disclosure could reasonably be detrimental to public safety and welfare and the best interests of the public; and (3) as otherwise expressly provided by statute; and

WHEREAS, Section 36-12-41 states that every public officer having the custody of a public writing which a citizen has a right to inspect is bound to give him, on demand, a certified copy of it, upon payment of the legal fees; and

WHEREAS, Section 41-13-1 defines a public record to include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and any record authorized to be made by any state law belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer; and

WHEREAS, courts have held that a custodian of public records may require the person seeking access to show that he or she has a direct, legitimate interest in the document or information sought, for there is no right of inspection when it is sought to satisfy a whim or to create scandal or for any other improper or useless purpose, and no right to demand to see public records without showing why he or she is interested; and

WHEREAS, a municipality may set reasonable restrictions on the time and place of inspection and may charge a reasonable fee for providing requested public documents, including Town staff research, preparation, and time in fulfilling the request; and

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Magnolia Springs, Alabama, that the following is adopted as the Town's Public Record Policy:

Statement of Policy: The Town of Magnolia Springs recognizes and supports the public's right to inspect and make copies of public records in accordance with law. Public records are available for public inspection and copying on a reasonable basis, subject to this policy. All responses to requests concerning public records will be made in such a way that will not interfere with the normal operation of the Town or the job duties of the employee.

Confidential Records: Municipal records fall into different categories, most of which are available to the public. Some records or portions of records are determined to be confidential and not subject to public disclosure, including, but not limited to, the following:

1. Any specific exception to the Open Records Act found in the Alabama Code.
2. All confidential written materials submitted to or from any officer or employee and an attorney for the Town.
3. Plans, evaluations or studies relating to safety and security of municipal employees and facilities.
4. Certain personnel records relating to Town employees, including W-2 forms. (Employees have the right to be notified of requests to access information contained in their personnel file)
5. Medical records and other personal health information pertaining to employees, unless authorized by the employee.
6. Test materials given to applicants for employment or promotion with the Town, including the results of any such test.
7. Certain personal identifying information, such as home address, telephone number, closest living relative information, social security number, taxpayer identification number, etc.
8. Information regarding gross receipts or tax payments of licensed businesses.
9. Internal audit work papers and internal audit reports, including system security information.
10. Any information concerning pending court cases.
11. Bank account or credit card numbers.

If there is uncertainty as to the confidential status of a record, the matter shall be referred to the Town Attorney for guidance and advice.

Submission of Requests: All persons requesting to view or obtain copies of public records shall be referred to the Town Clerk's office, subject to the exceptions listed below. The Clerk's office will provide an application form and/or receive completed written requests.

Removal of Records from Municipal Offices shall not be permitted.

Requests to view specific records or documents:

Anyone desiring to review specific files or records located in the Town Clerk's office may do so upon the availability of the Town Clerk. If needed, the Town Clerk may schedule an alternate time by appointment.

Requests to obtain copies of specific records or documents (no research, preparation or compilation required):

1. For records located in the Clerk's office, the applicant may receive immediate information concerning the cost and estimated time to provide said copies.
2. The cost shall be \$1.00 per page, whether provided by paper copies or transmitted by electronic means.
3. For documents, audio, and video recordings, etc. provided on electronic media (CD, DVD, Flash Drive, etc.), the cost shall be \$15 per media unit.
4. For information provided in response to requests involving property research, including environmental site assessments, code violations, etc., the cost shall be \$15.
5. Cost for requests that require minimal time and resources may be waived by the Town Clerk.

Requests to view or obtain copies of records that are not specific in nature and/or require compilation of data: Response to requests of this nature may require additional time, since research may be necessary to locate the records, review their status, or determine the complexity of the request. Charges for time may be necessary for records that are bound, require removal of staples, etc., or require editing to maintain the confidential status of portions of the material. The feasibility of providing access to records that are not of a standard size or format or are voluminous in nature must be determined.

Calculation of costs; Payments: No charges will be assessed for research that is necessary to evaluate and determine the feasibility of the request. Applicants will be given an estimate of the time and cost involved in providing the requested records or information. Applicants will be required to pay the estimated amount before the actual work or research is performed. The actual cost will be determined upon completion, and adjustments to the payment will be made if necessary. There will be no fees for the first half hour; thereafter, the cost will be calculated at \$25 per hour or portion thereof.

Approved and Adopted on this 25th day of July 2023.



Kim Koniar, Mayor

ATTEST:


Hannah Driskell, Town Clerk



REQUEST FOR INFORMATION OR ACCESS TO PUBLIC RECORDS

DATE: _____

NAME: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL ADDRESS: _____

I hereby request to () review () obtain a copy of the following public records or information:

REASON FOR REQUEST:

- Individual seeking information for personal use and not for a commercial purpose
- Affiliated with private commercial entity seeking information for use in entity's business
- Representative of public interest organization seeking information as part of news gathering function and not for a commercial purpose
- Affiliated with education or non-commercial scientific institution seeking information for scholarly or scientific purpose and not for a commercial purpose
- News media representative from _____
- Other _____

Signature of Applicant

() Request Approved

() Request Denied - Reason: _____

Information to be () picked up () emailed () mailed (additional cost may be assessed)

If research is required, there will be an additional charge. Please see reverse for explanation.

Estimated cost: _____ copies @ \$1.00 per page; _____ research hours @ \$25 per hour

Total amount: \$ _____ **Receipt #** _____ **Date:** _____

Final cost: _____ copies @ \$1.00 per page; _____ research hours @ \$25 per hour

Total amount: \$ _____ **Receipt #** _____ **Date:** _____

Request completed on _____ by _____

Excerpts from Resolution 2023-14:

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