

2006309

RESOLUTION NO. R-275-06

Adopting Public Record 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, on payment of the legal fees therefor; 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 City staff research, preparation and time in fulfilling the request;

Now, Therefore, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GADSDEN, ALABAMA, that the following is adopted as the City's Public Record Policy:

Statement of Policy: The City of Gadsden 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 city 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 City
3. Plans, evaluations or studies relating to safety and security of municipal employees and facilities
4. Certain personnel records relating to city 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 city, 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. All court documents pertaining to the execution of warrants
11. Any information concerning pending court cases
12. Any information submitted to or received from the NCIC/ACJIC facilities
13. Emergency medical reports prepared by the fire department, unless authorized by the victims or pursuant to court process
14. Records pertaining to ongoing fire investigations

15. Fire inspection reports (may be given to owner or occupant of the premises), unless authorized by the property owner
16. Records pertaining to confidential investigations of the police department, including but not limited to criminal investigations and internal affairs investigations
17. Confidential informant files
18. Crime scene information including photographs, videos, physical evidence and such other similar materials

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

Submission of requests: All persons requesting to view or obtain copies of public records shall be referred to the City Clerk's office (Room 401), 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.

Exceptions:

- (1) Reference materials at the Gadsden Public Library are available to the public. Self service coin-operated copy machines are provided, at a cost of \$.10 per page.
- (2) The drafting room of the engineering department may provide copies of blueprints and other large documents, with set fees according to the size and type of paper.
- (3) The municipal court office may provide information regarding court records to individuals and other courts.
- (4) The police and fire departments may provide copies of certain reports, which are subject to the fees set forth in City Code §74-1.
- (5) Information or records may be provided for auditing purposes, other governmental entities, or the news media at no cost.

Requests to view specific records or documents:

- (1) Anyone desiring to review specific files or records located in the City Clerk's office may do so on Monday, Wednesday, and Friday, from 9:00 a.m. to noon and 1:30 to 4:30 p.m. If needed, the City Clerk may schedule an alternate time by appointment.
- (2) When requests to review specific files or records not located in the City Clerk's office are received, the Clerk's office will contact the other office(s) to make the necessary arrangements. The applicant will then be notified of the time when and location where the records may be viewed.

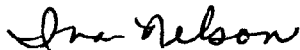
Requests to obtain copies of specific records or documents (no research, preparation or compilation required):

- (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) For records not located in the Clerk's office, additional time may be necessary to obtain information concerning the cost and estimated time to provide said copies.
- (3) The cost shall be \$.25 per page.
- (4) Cost for requests that require minimal time and resources may be waived by the City 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 feasibility of the request. Applicant will be given an estimate of the time and cost involved in providing the requested records or information. Applicant 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 \$10 per hour or portion thereof.

I certify that the City Council of Gadsden, Alabama, duly adopted this resolution at a meeting held on July 3, 2006.



Iva Nelson, City Clerk