

HARRISON COUNTY PUBLIC RECORDS ACCESS RULES

INTRODUCTION

The Board of Supervisors of Harrison County has patterned these rules after the Model Rules suggested by the Mississippi Ethic Commission to provide information and guidance to records requestors and county departments for complying with the Public Records Act, Section 25-61-1 through 25-61-17, Miss. Code of 1972 ("the Act"). The purpose of these Rules is to provide "reasonable written procedures ... concerning the cost, time, place and method of access to public records, and to give public notice of the procedures." Section 25-61-5. If there are any conflicts between these Rules and "the Act" then "the Act" controls.

RULE 1. AUTHORITY AND PURPOSE.

"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.

"[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.

The act defines "public record" to include "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).

The purpose of these rules is to establish the procedures Harrison County, Mississippi will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of Harrison County, Mississippi and establish processes for both requestors and Harrison County, Mississippi departments and employees that are designed to best assist members of the public in obtaining such access.

RULE 2. ONLINE ACCESS.

Requesters are encouraged to utilize the County website at Harrison County Online or <http://co.harrison.ms.us/> as many public records are readily available thereon at no or minimal cost.

RULE 3. CHANCERY CLERK AS PUBLIC RECORDS OFFICER.

The Harrison County Board of Supervisors (hereinafter referred to as County) designates the Minutes Clerk, in the office of the Chancery Clerk, as a point of contact for members of the public seeking public records. Upon receiving a public records request, the Minutes Clerk shall acknowledge receipt of same and shall route the request to the appropriate county department or county official for processing. The county department/official receiving the public records request from the Minutes Clerk shall notify the Minutes Clerk that the request has been received and of the final disposition of the matter. The Minutes Clerk shall maintain a file of completed public records requests in the office of the Chancery Clerk.

RULE 4. AVAILABILITY OF PUBLIC RECORDS.

Public records are available for inspection and copying during normal business hours of the County, Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding legal holidays. Any person requesting public records of the County must complete the Public Records Request form (available at <http://co.harrison.ms.us/> under "Popular Forms") and submit same to the Minutes Clerk by email to minutesclerk@co.harrison.ms.us or by written Request form delivered to the Minutes Clerk in the office of the Chancery Clerk, Harrison County Courthouse, 1801 23rd Avenue, Gulfport, MS. If email is used you must request confirmation of receipt of the same to avoid any question the request was received. If you do not receive confirmation of receipt, then you should contact the Minutes Clerk at the Chancery Clerk's office in Gulfport. A notation on the public records request form of "See attached letter" is not acceptable. The request submitted must clearly identify the public records requested. The County shall have seven working days to respond to the request to provide an estimate of the cost of searching for, copying and reviewing the records, and the records shall be made available or produced within fourteen days of payment of the estimated cost thereof.

A requestor has a duty to request identifiable records. The County is not required to conduct research for a requestor but only to produce identifiable public records. When the County receives a broad or vague request, it should seek clarification of the request from the requestor. The County is not obligated to create a new record to satisfy a records request but only to produce existing records.

The Minutes Clerk shall inform any requestor if the records requested are available on the County's website. There will be no charge made for electronically-accessible information on the County's website **other than Land Deed Records**, and the Minutes Clerk shall provide the requestor with the necessary information to view the information which is available on the County's website, at no cost to the requestor.

If the records requested are voluminous and the fees for copying same are cost-prohibitive, the requestor shall be given the opportunity to inspect the records and then consider selecting which records to copy or not. The requestor will be charged the usual research time for the department personnel gathering the records.

RULE 5. PROCESSING OF PUBLIC RECORDS REQUESTS.

Within seven working days of receipt of a public records request, the Minutes Clerk (or appropriate county department) shall provide an estimate of the cost of searching, reviewing, if necessary, and copying, if requested, of the records requested, and within seven working days of the payment of the estimated cost thereof shall (a) make the records available for inspection or copying; (b) 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; (c) provide a reasonable estimate of when records will be available, or if the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor; (d) deny the request and the reasons therefor.

Communication is the key to a smooth public records process for both requestors and the County. When the County receives a large or unclear request, it shall communicate with the requestor to clarify the request. If the request is modified orally, the Minutes Clerk shall memorialize the communication in writing and the requestor shall submit a revised public records request.

All departments of the County shall promptly respond to inquiries about responsive records from the public records officer. If any county department is unable to provide the requested records within fourteen working days, that department shall advise the requestor that additional time is required to fulfill the request and an estimate of the time to do so.

Access to a public record can be provided by allowing inspection of the record, providing a copy, or posting the record on the County's web site and/or assisting the requestor in finding it. The County shall mail a copy of records, if requested and if the requestor pays the actual cost of postage plus the cost of searching, reviewing and copying the same. The requestor can specify which method of access (or combination, such as inspection and then copying) he or she prefers.

If a portion of a record is exempt from disclosure but the remainder is not, a public body generally is required to redact (black out) the exempt portion and then provide the remainder to the requestor. Originals should not be redacted. For paper

records, the County shall redact materials by first copying the record and then on the copy use a black marker or equivalent to redact the exempt portion of that record. When the County claims an exemption for an entire record or portion of one, it must inform the requestor of the exemption and provide a brief explanation of how the exemption applies to the record or portion withheld. The brief explanation shall provide enough information for the requestor to make a determination of whether the claimed exemption is proper. The County shall charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.

If the requestor sought to inspect the records, the County shall notify him or her that the request is available for inspection upon payment of costs, if any, and ask the requestor to contact the County to arrange for a mutually agreeable time for inspection. The notification shall recite that if the requestor fails to inspect or copy the records or make other arrangements within thirty days of the date of the notification that the County will close the request. If the requestor sought copies, or there is a cost associated with the search or review of the records, the County shall notify him or her of the projected costs and whether a deposit is required before the search, review or copies made will commence.

RULE 6. PROCESSING PUBLIC RECORDS REQUESTS – ELECTRONIC RECORDS.

The process for requesting electronic public records is the same as for requesting paper public records. Costs for providing electronic records are governed by Rule No. 8. With the consent of the requestor, the County may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The County may charge the actual cost for such customized access.

The County can only produce public records if it can locate the records based on a description provided by the requestor and can only produce records which it can reasonably locate. When locating the requested records or translating them into the requested format cannot be done without specialized programming, the County may charge actual fees for "customized access."

RULE 7. EXEMPTIONS AND THIRD PARTY INFORMATION.

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 exemptions as set forth in "the Act" and other exemptions under the law which may apply.

When any person files or submits documents with the County which the filer contends are exempt from disclosure under "the Act" the filer may 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.

Any person filing documents with the County shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The County 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 County bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

RULE 8. COST OF PROVIDING PUBLIC RECORDS

The cost for reproducing paper copies of records shall be \$0.50 per page plus the costs of searching and reviewing said records if required. The County shall require payment in advance for all costs before providing copies or access to records.

The cost for searching for and collecting the requested information shall be based upon an hourly rate as determined by the salary of the lowest paid employee capable of performing the work.

If a County department gathers requested information from several sources and creates a list of information on several pages, these pages shall be scanned and made available as an Adobe Acrobat PDF copy at a cost of \$0.50 per page.

The requestor must pre-pay all reasonably estimated costs of searching for and reviewing and, if necessary, redacting exempt information from public records; and must pre-pay all reasonably estimated costs of copying all the records requested before search for records is commenced. If the request requires legal review of the records requested, the estimated cost thereof must also be paid.

If inactive records are requested which have been placed in storage, the requestor shall pre-pay the cost to retrieve said records from storage.

The County shall also charge actual costs of mailing. Payment may be made by cash, check, or money order, payable to Harrison County General Fund (or to the Chancery Clerk or the Circuit Clerk, if applicable).

If the requestor seeks inspection of a large number of records but only selects a smaller group of them for copying, copy charges will only be made for the records selected by the requestor. However, charges can be made for searching, reviewing and redacting records not copied.

If the requestor specifies that he/she seeks inspection of records, the requestor shall first pay the County an estimate of the cost involved searching and reviewing, if necessary, of the records requested. Upon inspection of the records, the requestor may choose to have certain of those records inspected to be copied, at which time the requestor shall submit a new public records request for copies of certain designated records at a cost of \$0.50 per page.