

Ordinance No. 2413

ORDINANCE TO AMEND SECTIONS 2-9-3, 2-9-5, 2-9-7, and 2-9-8 OF ARTICLE IX
RELATING TO PUBLIC RECORDS, AND SECTION 2-9-8 CODE OF ORDINANCES
RELATING TO MISSISSIPPI UNIFORM CRASH REPORTS

WHEREAS, it is necessary to update the process for producing Public Records in accordance with State Law; and

WHEREAS, the Reports are not public records of the City of Biloxi, but are the confidential records of the Mississippi Department of Public Safety; and

WHEREAS, Section 63-3-417 of the Mississippi Code of 1972, as amended, governs the procedure by which the Reports may be produced to authorized persons; and

WHEREAS, Section 2-9-3 increases the timeframe, advising of production delay, to seven days, and allows a designee to provide a status using the same methods of communication,

WHEREAS, Section 2-9-5 corrects the address of City Hall and adds additional methods of submittal options for requests; and

WHEREAS, Section 2-9-7 includes the Deputy Municipal Clerk in the evaluation and approval process; and

WHEREAS, Section 2-9-8 removes a monthly report requirement and, at the request of a Council Member, provides access for individual viewing; and

WHEREAS, the City of Biloxi regularly receives public records requests for Mississippi Uniform Crash Reports (the "Reports"); and

WHEREAS, the Department of Public Safety has implemented new software to process Uniform Crash Reports to process reports beginning September 9, 2019 and an update to Section 2-9-9 is necessary.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION 1: Article IX. of the Code of Ordinances, City of Biloxi, Mississippi of 1992, Sections 2-9-3, 2-9-5, 2-9-7, and 2-9-8 are hereby amended to read the following:

Sec. 2-9-3. - Production of or denial of access to records; payment of costs.

The ~~municipal~~ City eClerk, or his or her designee, shall produce public records, deny requests for production of public records or provide a detailed written explanation why the requested public records are not immediately available within ~~six~~ seven working days of the request, except as otherwise provided by law. Within that period, the eCity eClerk, or designee,

shall notify the person requesting such information as to whether or not such request shall be honored. If the request is to be honored, the notice thereof shall contain an estimate of the total cost of compliance with such request. The party requesting production must tender payment in the amount of that estimate before the requested public records are produced. The notice shall be timed so as to allow the requested production within ~~six~~ 14 working days of the request. Where records are legitimately not immediately available for reasons, including, but not limited to, the need to consult legal counsel, and additional time is necessary to comply with the request, records should be produced as soon as possible, but no later than 14 working days of the request unless additional time is needed based on correspondence from the City or the City's Legal Counsel.

Sec. 2-9-4. – Records of denials of requests for access to records.

The eCity eClerk shall maintain a file of all denials of requests for access to or copies of public records, showing the subject of the request, timeframes involved in response to the request, and a written response to the person requesting the records, containing a statement of the specific reasons for the denial of the request. All records kept and maintained concerning denials of requests for access to or copies of public records shall be preserved for a period of three years from the date of the denial of such request.

Sec. 2-9-5. - Receiving address for requests for information.

The city shall receive requests for information on forms prescribed by the city, at the following addresses:

In person:

City Clerk
City Hall
~~216~~ 140 Lameuse Street
Biloxi, MS 39530

By mail:

City Clerk
City Hall
Post Office Box 429
Biloxi, MS 39533

By Fax:

(228) 435-6129

By Email:

publicrecords@biloxi.ms.us

Requests made in person shall be made in person during business hours (8:00 a.m. to 5:00 p.m.) on regular working days, legal holidays, Saturdays and Sundays excepted.

Sec. 2-9-6. - Fee for copying or research of records.

The city shall collect in advance for such copies from the person requesting copying or reproduction of any public record, at a rate of \$0.35 per copy (one side only). If the copies of public records are to be mailed, the city shall collect in advance from the person requesting the copies the estimated postage for mailing copies of such records. If research time is utilized in locating or determining eligibility for release of any record requested, the city shall collect in advance from the person requesting the records for the estimated costs of such research, at the rate of \$5.00 per hour. If computer records are requested, an additional charge of \$50.00 per hour for the estimated costs of such records will be collected in advance from the person making the request. Charges for fractional hours shall be determined by multiplying the applicable hourly rate times a fraction, the numerator of which will be the number of minutes expended, and the denominator of which will be 60. Any such charges paid by a person requesting public records or public information shall be in such amount as to be reasonably calculated to reimburse the city for the actual cost of such services. Charges shall in no instance exceed the cost of searching, reviewing and duplicating such public records and, if applicable, mailing copies of public records. If the estimate exceeds the actual costs of the service requested, the excess shall be refunded to the party requesting the records at the time the requested copies are furnished.

Sec. 2-9-7. - Responsibility for processing of requests for information.

It shall be the duty of the ~~m~~Mayor or ~~the city~~ Municipal or Deputy Municipal eClerk to evaluate and approve or deny all requests for information under this article.

Sec. 2-9-8. - Report to city council of actions regarding access to records.

Upon request, the City Council shall be allowed to review Public Record Requests and dispositions of such requests. ~~The mayor and city clerk shall report all actions taken by them in compliance with the act adopted in section 2-9-1 since the council's last regular meeting, to the city council, at its next regular meeting after compliance with or denial of the request. Such report shall be recorded in the minutes of the.~~

Sec. 2-9-9. - Mississippi uniform crash reports.

- (a) *Adoption of state law.* Section 63-3-417 of the Mississippi Code of 1972, as amended, is hereby incorporated in this article by reference.
- (b) Mississippi uniform crash reports are the confidential property of the state department of public safety and are not public records. However, the state department of public safety may, upon written request of any person involved in an accident, the spouse or next of kin of any

such person, or any person against whom a claim is made as a result of the accident or upon written request of the representative of his estate (collectively, "authorized persons"), disclose to such requester or his legal counsel or a representative of his insurer any information contained in such report except the parties' version of the accident as set out in the written report filed by such parties, or may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

- (c) The state department of public safety provides access to such records to authorized persons for a charge per requested report. Such Any reports processed prior to September 9, 2019, maybe may also be accessed on-line through Report Beam at www.reportbeam.com, for a charge. All reports processed after September 8, 2019, will be supported by eCrash, and all reports must be processed by the Police Department.
- (d) The ~~municipal~~ City eClerk, or his or her designee, may produce Mississippi uniform crash reports to authorized persons, named in report free of charge, when requested, in accordance with MCA 1972, § 63-3-417, as amended, and shall collect in advance the sum charged to the city for the access of the report requested by non-named parties, plus charges allowed by section 2-9-6 of this Code.

SECTION 2: This Ordinance shall become effective as soon thereafter as is legal, provided this ordinance is signed, certified, and as is otherwise provided by law.

The foregoing Ordinance having first been reduced to writing, was read by the Clerk and moved by Councilmember Barrett, seconded by Councilmember Glavan, and was adopted by the following vote:

YEAS:	Lawrence	Tisdale	NAYS:	None
	Gines	Glavan		
	Newman	Barrett		
	Deming			

The President then declared the Ordinance adopted this the 28th day of January, 2020.

(SEAL)

ATTEST:

/s/Karen Brashier

ADOPTED:

/s/ Dixie Newman

CLERK OF THE COUNCIL
THE COUNCIL

PRESIDENT OF

Submitted to and approved by the Mayor, this the 31st day of January, 2020.

APPROVED:

/s/A.M. Gilich, Jr.

MAYOR