

(Published in the Mount Hope Clarion, January 22, 2009)

Ordinance No. 164-2009

AN ORDINANCE CREATING THE OPEN RECORDS ACT OF THE CITY OF MOUNT HOPE, KANSAS:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MOUNT HOPE, KANSAS:

Section 1. POLICY.

(a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon written request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.

(c) Those person(s) making requests for public records should use the official city request form which is available from the City Clerk or any records custodian. In place of the official request form, the person may make a written request for a record and include certification that the reason for obtaining the record is not for commercial purposes in compliance with K.S.A. 45-220(c).

Section 2. RECORD CUSTODIANS.

(a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.

(b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.

Section 3. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:

(a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;

(b) be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;

(c) respond to inquiries relating to the Kansas Open Records Act;

(d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.

Section 4. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record.

Section 5. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office.

Section 6. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records.

Section 7. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
- (b) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
- (c) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
- (d) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
- (e) City Maintenance Superintendant - All public records not on file in the office of the city clerk and kept and maintained in the maintenance department.

Section 8. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The City Clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in Section 3.

Section 9. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

- (a) Each of the official custodians appointed in Section 6 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.

Section 10. REQUESTS TO BE DIRECTED TO CUSTODIANS.

- (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
- (b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a written request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

Section 11. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city clerk not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city.

Section 12. INSPECTION FEE.

- (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
- (b) In all cases not covered by subsection (a), a record inspection fee shall be charged at the actual hourly rate per employee engaged in the record search at a minimum of 5 minute increments.

Section 13. COPY FEE.

- (a) Where a request has been made for copies of any of the following open public record there shall be no copy fee charged to the requester.

- 1) City Council Agenda
- 2) City Council Packets
- 3) Planning Commission Agenda

- (b) In all cases not covered by subsection (a), a record copy fee shall be charged as follows:

1) POLICE RECORDS:

- a) Offense, accident, arrest and misc. reports; \$5 minimum (25 pages) and over 25 pages will be charged an additional \$.25 per page.
- b) Driving Under the Influence (DUI) reports; \$10.
- c) DVD/VHS tapes: \$25.

2) PLANNING RECORDS:

- a) Comprehensive Plan; \$20.
- b) Zoning Regulations; \$25.
- c) Subdivision Regulations; \$20.

3) MAINTENANCE DEPARTMENT RECORDS; \$.25 per page.

4) RECORDS NOT SPECIFICALLY ADDRESSED BY DEPARTMENT:

- a) Photocopies (Black and White): \$.25 per page (requiring less than 15 minutes of staff time, any requests requiring more than 15 minutes will be charged fee plus actual hourly rate in 5 minute increments).
- b) Photocopies (Color): \$.50 per page (requiring less than 15 minutes of staff time, any requests requiring more than 15 minutes will be charged fee plus actual hourly rate in 5 minute increments).
- c) Photocopies or records (stored off-site): \$15 retrieval fee + fee + actual hourly rate charged in minimum of 5 minute increments.
- d) Computer diskette / CD (containing data, photos or audio): \$5 per diskette.
- e) Photographs (Digital Prints/ not run on copy paper): \$1.00 per photo + actual hourly rate charged in minimum of 5 minute increments.
- f) Street Maps (24x36): Actual cost to produce (off-site).
- g) Records not specified: Actual cost to reproduce.

- (c) Additional fees shall be applicable under the following circumstances:

- 1) Faxing of records: \$.25 per page plus actual hourly rate charged at minimum 5 minute increments.
- 2) Mailing of records: Postage and handling plus material costs and actual hourly rate charged at minimum of 5 minute increments.
- 3) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

Section 14. PREPAYMENT OF FEES.

A record custodian shall require prepayment of the fees established by this article. No record shall be made available to the requester until such prepayment has been made.

The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

Section 15. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and

payment, with the city.

SECTION 16: This Ordinance shall be effective after it is published once in the official city newspaper.

PASSED and APPROVED by the governing body the 13th day of January, 2009.

Terry Somers, Mayor

ATTEST:

George Dick, City Clerk