

Ordinance 1514

AN ORDINANCE REPEALING AND REPLACING ORDINANCES 477 AND 478  
ESTABLISHING PROCEDURES AND FEES TO BE CHARGED TO PERSONS FOR ACCESSING  
AND/OR COPYING OPEN PUBLIC RECORDS AND REVISING THE CODE OF THE CITY OF  
ANDOVER, ARTICLE 1, CHAPTER 5, ADMINISTRATION.

Be it Ordained by the Governing Body of the City of Andover, Kansas, as follows:

Section 1. Section 1-501 through 1-506 of the Code of the City of Andover, Kansas is hereby amended to read as follows:

1-501 Procedures regarding both inspection and copying of open public records.

The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

- a) Consistent with the policy, duties and procedures established by the State of Kansas in K.S.A. 45-215 et seq., all City record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to public records.
- b) Record custodians shall adopt and apply open public record access and copy procedures consistent with the policies of the City and with the provisions of the Open Records Act. Specifically, such procedures will inform members of the public of the procedures to be followed in making a request for inspection or copy of an open public record, including the hours during which record inspection or copy request may be made; who a request is to be made to; the forms to be completed in making a request; and the schedule of fees charged.
- c) Record custodians shall adopt and apply procedures which will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.
- d) Record custodians shall take necessary measures, consistent with their duties to ensure that the essential functions of the custodian's office, department or agency, is not disrupted by requests for record inspection and copying.
- e) All inspections and copying of open public records shall be performed by, or under the supervision of, the record custodian responsible for such records.
- f) Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanically reproducing the subject record is likely to cause damage to the record.

- g) All persons requesting the inspection of or a copy of open public records shall make such request in writing which reasonably describes the record sought prior to the request being honored. In instances where the requestor cannot provide sufficient information to identify a record, the custodian shall assist in making such identification. No form shall be required for requests made for records which have been reproduced for free public distribution.
- h) In cases where a request for a specific record gives the record custodian reason to believe that the record contains information of a personal nature which, if disclosed, would constitute an unwarranted invasion of personal privacy, the record custodian shall inform the requester that a 72-hour waiting period must run before such record may be inspected. During that 72-hour period, the record custodian shall make every reasonable effort to determine the identity of those persons whose privacy interest may be so affected by disclosure. The record custodian shall attempt to contact such persons and ascertain whether they, or any of them, will seek a court order challenging disclosure. If so, the record custodian shall deny inspection pending the outcome of litigation or an intervening court order.
- i) The record custodian may demand reasonable identification of any person requesting a record.
- j) Any fees for record inspection or for copies are due at the time the records or copies thereof, are provided to the requester, unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian.
- k) The record custodian shall notify the record requester, prior to commencing search of the record or copies thereof, of his or her estimate of the fee which will be made for honoring the request whenever such estimate exceeds \$10.00.
- l) The record custodian shall determine and assess a charge covering mailing and handling costs accrued in responding to requests through the mail service.
- m) The record custodian may exercise his or her discretion to reduce or waive any inspection or copying fees when such is in the public record.
- n) No record inspection or copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties.
- o) No inspection fee shall be charged the requester if the actual cost of locating the records pursuant to one request is less than \$10.00 or, in the case of multiple requests brought by the same person or on behalf of the same person, where the actual cost of locating the records pursuant to requests made over a 24-hour period is less than \$10.00.
- p) No inspection fee will be assessed when a denial of a request is made. The record custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the City Attorney.

- q) Hours for making requests for inspection or copying shall be all regular working hours for each day the office maintains regular office hours. If an office keeping or maintaining public records does not have regular office hours Monday through Friday, the official custodian for such office shall establish hours for each such day when no regular office hours are kept, at which time members of the public may make requests for record inspection or copies of records.
- r) Removal of open public records from the office where kept and maintained, for purposes of inspection and/ or the making of copies shall be permitted only with the written permission of the record custodian. It shall be unlawful for any person to fail to return such records at the time and place where such return has been promised. Upon conviction for violation of this subsection a person may be fined up to \$50.00 or sentenced to five days in the Butler County Jail, or be both so fined and imprisoned.
- s) The above procedures, as well as, any other inspection and copying procedures shall be posted in a conspicuous place in the office of the record custodian.

1-502 Statement of Purpose, Review. It is the purpose of this Ordinance to establish reasonable guidelines to be followed in responding to requests for information and to avoid the necessity of using general public funds of the City to subsidize special services and benefits to a record requester. All 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 (K.S.A. 45-215 – TO 45-230, as amended.

1-503 Inspection fee.

- a. Where 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 cases not covered by subsection (a) of this section, a record inspection fee shall be at the rate of \$20.00 per hour per employee engaged in the record search. Requests that require more than two hours of time will be charged at an hourly rate equal to 125% of the employee's adjusted hourly wage.
- c. Fire and Rescue department records and report fees are charged as outlined in the most current International Fire Code adopted by the City of Andover.

1-504 Copying fee.

- a. A fee of 25 cents for each 8½" x 11" copy and 50 cents for each 11 x 17" (b & w or color) copy shall be charged for photocopying public records, such fee to cover the cost of labor, materials, and equipment. When it is necessary for the information to be mailed, there shall be an additional charge assessed to cover postage and handling.

- b. 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.
- c. Other costs are as follows:
  - a. Records copied to computer disks  
(CD/DVD) \$25.00

Police Department documents

- a. Accident Reports \$5.00
- b. Accident Report Photos \$25.00
- c. Accident Report Videos \$25.00
- d. Offense Reports \$5.00
- e. Offense Report Photos \$25.00
- f. Offense Report Videos \$25.00
- g. Dispatch Recordings \$25.00
- h. Call for Service Records \$5.00
- i. Criminal History Records \$10.00

1-505 Prepayment of fees.

- a. A record custodian may demand prepayment of the fees established by this Ordinance whenever he or she believes this to be in the best interest of the City. 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.
- b. Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$10.00.
- c. Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.

1-506 Payment. All fees charged under this Ordinance shall be paid to the custodian of the records inspected or City Hall staff.

1-507 Not used.

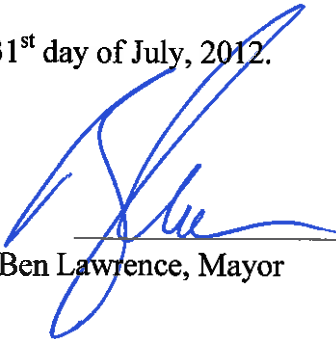
1-508 Not used.

**Section 2.**

Effective Date. This Ordinance shall take effect upon its publication as required by law, and shall repeal and take the place of prior City Ordinances 477, 478, and sections 1-501 through 1-508 of Article 1, Chapter 5, of the Code of the City of Andover.

Passed by the Governing Body of the City of Andover this 31<sup>st</sup> day of July, 2012.



  
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Ben Lawrence, Mayor

ATTEST:

  
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Susan C. Renner, City Clerk

I hereby certify that the foregoing is the original ordinance; that said ordinance was passed on the 31<sup>st</sup> day of July, 2012; that the record of the final vote on its passage is found on page 2 of the minutes from July 31, 2012; that it was published in the Augusta Daily Gazette on the 4<sup>th</sup> day of AUGUST, 2012.

City Clerk 