

ORDINANCE NO. 22-3423

AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 13 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS PERTAINING TO OPEN PUBLIC RECORDS REQUESTS, DESIGNATION OF THE LOCAL FREEDOM OF INFORMATION OFFICER AND RECORDS CUSTODIANS, AND FEES TO BE CHARGED TO PERSONS FOR ACCESSING OR COPYING OPEN PUBLIC RECORDS.

Be it be Ordained by the Governing Body of the City of Abilene, Kansas:

SECTION ONE. Chapter 1, Article 13 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

Article 13. Open Records

1-1301. 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 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.

1-1302. 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 the 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.

1-1303. Local freedom of information officer.

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.

1-1304. 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.

1-1305. 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 or copy an open public record. The office of the city clerk, being the principal recordkeeper 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.

1-1306. 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.

1-1307. 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) The city clerk shall be the official custodian of 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) The city finance director shall be the official custodian of all public records not on file in the office of the city clerk and kept and maintained in the city finance director's office.
- (c) The chief of police shall be the official custodian of all public records not on file in the office of the city clerk and kept and maintained in the city police department.
- (d) The fire chief shall be the official custodian of all public records not on file in the office of the city clerk and kept and maintained in the city fire department.
- (e) The clerk of the municipal court shall be the official custodian of all public records not on file in the office of the city clerk and kept and maintained in the municipal court.

Upon receipt of a request to inspect or copy any record, the official custodian receiving such request shall promptly notify the city manager, city attorney, and city clerk, as applicable, and the city manager, city attorney, and city clerk, as applicable, shall review and approve the city's response before it is furnished by the custodian to the requestor.

1-1308. 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 1-1303.

1-1309. Designation of additional record custodians.

(a) Each of the official custodians appointed in Section 1-1307 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.

1-1310. 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 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.

1-1311. Fee administration.

The finance director is hereby authorized to provide the city 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 treasurer 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 city clerk and finance director of the city.

1-1312. 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 an hourly rate determined by the actual hourly rate of the employee engaged in the record search plus 20% to cover benefits. A minimum charge of \$10.00 shall be charged for each such request.

(c) No inspection fee will be assessed when a denial of a request is made.

1-1313. Copying fee.

(a) A fee of \$1.00 per page for the first page and \$.50 for every page thereafter shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(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) A fee of \$1.00 per page for the first page and \$.50 for every page thereafter, shall be charged for facsimile transmission of public records, such fee to cover the cost of labor, materials, and equipment.

1-1314. Mailing fee.

The record custodian shall determine and assess a charge covering mailing and handling costs accrued in responding to requests received and processed through the mail service. A minimum handling fee of \$1.00 shall be charged in addition to the actual mailing costs for each request.

1-1315. Prepayment of fees.

(a) A record custodian may demand prepayment of the fees established by this article 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 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 copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$25.00.

(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.

1-1316. Payment.

All fees charged under this article shall be paid to the custodian of the records inspected and copied unless the requester has established an account, for purposes of billing and payment, with the city.

SECTION TWO. Existing Chapter 1, Article 13 of the City Code of the City of Abilene, Kansas is hereby repealed.

SECTION THREE. This Ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 22-3423 Summary

On October 24, 2022, the City Commission passed Ordinance No. 22-3423. The ordinance amends Chapter 1, Article 13 of the City Code of the City of Abilene, Kansas pertaining to open public records requests, designation of the local freedom of information officer and records custodians, and fees to be charged to persons for accessing or copying open public records. A complete copy of the Ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 24th day of October 2022.

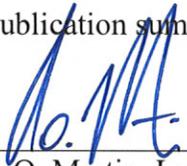



Dee Marshall, Mayor

Attest:


Shayla Mohr, City Clerk

The publication summary set forth above is certified this 24th day of October 2022.


Aaron O. Martin, Legal Counsel