

ORDINANCE NO. 367 371

AN ORDINANCE PROVIDING FOR THE MAINTENANCE, PRESERVATION AND PROTECTION OF PUBLIC RECORDS, AND ESTABLISHING POLICIES, PROCEDURES AND FEES FOR ACCESSING AND COPYING OPEN PUBLIC RECORDS.

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

Section 1. Statement of Purpose, Review. It is the purpose of this Ordinance to provide for the maintenance, preservation and protection of public records and to establish policies, procedures and fees for accessing and copying open public records in the possession of the City to avoid the necessity of using general public funds of the City to subsidize special services and benefits to a record requester. The official records custodian shall periodically recommend to the Governing Body such changes in this Ordinance as may be necessary to secure this purpose.

Section 2. 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 (KORA).

(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 records custodian thereof, or his or her designated representative.

Section 3. Records Custodians. Consistent with the policy, duties and procedures established by the State of Kansas in K.S.A. 45-215 *et seq.*, all record custodian(s) appointed and designated pursuant to this ordinance shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record.

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 records custodian for each such day at which time any person may request access to an open public record. Most records will be produced within three (3) business days from the time the request is received. If there is a delay in producing the requested record a written explanation will be given to the requester of the record(s).

Section 5. Request Denial. (a) The custodian of the public records may refuse to provide access to a public record, or to permit inspection and/or copying, if a request places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. If the request is denied, a written explanation will be given to the requester of the record(s).

(b) No inspection fee will be assessed when a denial of a request is made. The records custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the City or County Attorney.

Section 6. 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 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.

Section 7. Procedures for Inspection. Any person requesting access to an open public record, in writing, 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 records custodians as authorized by the governing body. The record custodian may demand reasonable identification of ANY person requesting a record. Such procedures shall be posted in each city office keeping and maintaining open public records. Copies of public records shall be made while the records are in the possession, custody and control of the custodian or a person designated by the custodian and shall be made under the supervision of such custodian or person. All copies will be made on the cities copy machine, which is located in the city clerk's office. Under no circumstances will an individual be allowed to bring in another copy machine for the purpose of copying public records.

Section 8. Appointment of Official Custodians. The following city officer(s) are hereby appointed as official custodians for purposes of KORA 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.

Section 9. Designation of Additional Records custodians.

(a) Each of the official custodians appointed in section 8 is hereby authorized to designate any subordinate officers of employees to serve as records custodian. Such records custodians shall have such duties and powers as are set out in KORA.

(b) Whenever an official custodian shall appoint another person as a records 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. Duties of Custodians. All city officers and employees appointed or designated as records custodians under this ordinance 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.

Section 11. 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 KORA, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) **ALL REQUEST FORMS MUST BE COMPLETED BY THE PARTY REQUESTING THE RECORD AND/OR COPIES.** In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the records custodian and presented to the records custodian.

(c) A written request is sufficient if it reasonably describes the record sought.

(d) Mechanical reproduction of a record shall not be undertaken when it is the judgement of the records custodian that any available means of mechanically reproducing the record is likely to cause damage to such record.

(e) Whenever any city officer or employee appointed or designated as a custodian under this ordinance 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.

Section 12. Fee Administration. The city clerk is hereby authorized to provide the clerk's office, and the office of each records 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 clerk-finance officer and treasurer of the city.

Section 13. Inspection Fee. (a) Where a request has been made, in writing, for inspection of any open public record which is readily available to the records custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$ 10⁰⁰ per hour per employee engaged in the record search. A minimum charge of \$ 2⁰⁰ shall be charged for each such request.

Section 14. Copying Fee. (a) A fee of , 25 cents per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and/or 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.

Section 15. Prepayment of Fees. (a) A records 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 records custodian, such fees are estimated to exceed \$ 30⁰⁰.

(c) Where prepayment has been demanded by the records custodian, no record shall be made available to the requester until such prepayment has been made.

Section 16. Payment. All fees charged under this ordinance shall be paid to the custodian of the records inspected and/or copied. All fees received shall be paid to the City Treasurer not less than monthly.

Section 17. Effective Date. This Ordinance shall take effect and be in force from and after its publication in the official city or county newspaper.

Adopted by the Governing Body of the City of Severy, Kansas, this 6th day of November, 2000.

Robert E. Coble
Robert E. Coble, Mayor

ATTEST: Rhonda L. Taylor
Rhonda L. Taylor, City Clerk

