

ORDINANCE NO. 2538

AN ORDINANCE OF THE CITY OF GARDNER, KANSAS, AMENDING CHAPTER 2.45 OF THE GARDNER MUNICIPAL CODE ENTITLED "OPEN RECORDS", ESTABLISHING AN OPEN RECORDS POLICY, AND REPEALING ORDINANCE NO. 1890 IN ITS ENTIRETY.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: Chapter 2.45 entitled "Open Records" is hereby amended to read as follows:

2.45.010 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.

2.45.020 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; ensure efficient and timely action and response to all applications for inspection of public records; and 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.

2.45.030 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 to 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 Freedom of Information Officer shall include plainly written basic information about the rights of the requester, the responsibilities of the City, and the procedures for inspection and obtaining copy of public records under the Act.

2.45.040 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.

2.45.050 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.

2.45.060 Procedures in Requesting Access to and Obtaining Copies of Public Records. The official records custodians are hereby authorized to promulgate appropriate rules and regulations to be followed in requesting access to and obtaining copies of public records pursuant to the Kansas Open Records Act. These rules and regulations shall provide full access to public records, to protect public records from damage and disorganization, prevent excessive disruption of the City's essential functions, provide assistance and information upon request and ensure efficient and timely action and response to all applications for inspection of public records.

2.45.070 Response to Request. All requests for access to public records shall be acted on not later than the third business day following the date that the request is received by the appropriate custodian of the City. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of third business day following the date that the request for the statement is received.

2.45.080 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 kept and maintained by the Police Department that are not kept and maintained in the Office of the City Clerk.
- C. Clerk of the Municipal Court – All public records kept and maintained by the Municipal Court that are not kept and maintained in the Office of the City Clerk.

2.45.090 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 2.45.030.

2.45.100 Designation of Additional Record Custodians.

- A. Each of the official custodians appointed in Section 2.45.080 are 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.

2.45.110 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.

2.45.120 Fee Administration. The official custodians are hereby empowered and authorized to promulgate appropriate rules and regulations for the collection of fees which shall not exceed the actual cost of furnishing copies, including the cost of staff time required to make the information available. In the case of fees for providing access to records maintained on computer facilities, the fees shall include only the copies of any computer services, including staff time required. All fees charged pursuant to this Section shall be paid to the City of Gardner for credit in the General Fund.

SECTION TWO: Ordinance No. 1890 is hereby repealed in its entirety.

SECTION THREE: Effective Date. This Ordinance shall take effect and be in force upon its passage by the City Council and publication in the official City Newspaper as required by law.

PASSED and APPROVED by the Governing Body of the City of Gardner, Kansas, on this 5th day December, 2016.

CITY OF GARDNER, KANSAS

(SEAL)

/s/ Chris Morrow
Chris Morrow, Mayor

Attest:

/s/ Jeanne Koontz
Jeanne Koontz, City Clerk

Approved as to form:

/s/ Ryan B. Denk
Ryan B. Denk, City Attorney