RESOLUTION NUMBER 5551

A resolution establishing the open records operating procedures for the City of Beatrice, Nebraska, and fees to be charged to persons for accessing approved open public records.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. **Statement of Purpose, Review.** It is the purpose of this resolution to establish reasonable operating procedures, and appropriating fees for accessing approved open public records in the possession of the City. The City Administrator shall periodically recommend to the City Council such changes in this resolution as may be necessary to secure this purpose. The City Administrator or his/her designated representative may exercise their discretion to reduce or waive any fees when such is in the public interest. No charge shall be assessed against any officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties.

SECTION 2. **Operating Procedure.**

(a) All requests for access or copies of public records shall be in writing. All person's requesting access or copies of public records (a Requester) shall provide a detailed description of the document they are requesting, an address they can be contacted at, and a deposit as required. This section shall not be construed to require a custodian to copy any public record that is available to the Requester on the City's web site. The custodian of the public record is required to provide the location of the public record on the City's web site to the Requester. If the Requester does not have reasonable access to the internet due to lack of computer, lack of internet availability, or inability to use a computer or the internet, the custodian shall produce copies for the Requester pursuant to the fees and costs outlined herein.

(b) Copies of City publications, regulations, or maps, etc., and other reports, that are not deemed a security breach or violation of the Homeland Security Act, and are determined to be accessible public records, shall be made available according to the fee schedules in this Ordinance.

(c) All requests for access or copies of public records shall be approved by the City Administrator or his/her designee prior to any records being disbursed.

(d) If a request is denied, the City Administrator or his/her designee shall provide written denial to the Requester.

(e) If a request cannot with reasonable good faith efforts be fulfilled within four (4) business days after actual receipt of the request, a written explanation shall be provided to the Requester which shall also include an estimate of the expected cost of the copies. The four (4) business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run.

(f) The Requester shall have ten (10) business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the Requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request.

(g) Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

SECTION 3. **Inspection and Production Fees.**

(a) Where a request has been made for inspection or production of any public record which is readily available to the Records Custodian, there shall be no inspection charge to the requester. Requests and appointments for inspection are desired.

(b) Where a request has been made for inspection or production of any public record which is not readily available to the Records Custodian, there shall be no inspection or production charge to the requester for the first four (4) hours of cumulative searching, identifying, physically redacting, or administrative copying.

(c) In all cases not covered by subsection (a) and (b) above, a record inspection or production fee shall be charged at an hourly rate determined by the actual per hour rate of the employee(s) engaged in the record search plus 28% to cover benefits. A minimum charge of $10.00 shall be charged for each request.

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

(e) No inspection or production fee will be assessed for any charges for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

SECTION 4. **Copying Fee**

(a) A fee of $0.25 per page for the first page (one side) and $0.25 for every page thereafter (each side) shall be charged for photocopying public records, such fee to cover the cost of machine materials and equipment costs.

(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,

for reproducing such records, which shall include but not be limited to cds, dvds, and maps.

(c) No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when it has been determined that the cost of charging and handling the fee exceeds the cost of providing a copy without charge. No copying fee will be assessed when a denial of a request is made.

SECTION 5. **Mailing or Electronic Transfer Fees.** The City Clerk shall determine and assess a charge covering mailing, electronic transfer, and handling costs accrued in responding to requests received and processed through the mail service or electronic media. Requests are encouraged to be picked up at the City Clerk's Office to ensure proper receipt and accuracy of end product.

SECTION 6. **Other Records Fees.**

(a) A fee of $0.25 per page for the first page and $0.25 for every page thereafter shall be charged for computer generated printouts of public records, such fee to cover the cost of materials and equipment.

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

SECTION 7. **Prepayment of Fees.**

(a) Prepayment of inspection and/or copying fees shall be required when such fees are estimated to exceed $50.00.

(b) The prepayment amount shall be an estimate of the inspection, copying charges, mailing or electronic transfer fees and any other records fees 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. Where prepayment is required, no record shall be made available to the requester until such prepayment has been made.

SECTION 8. **Payment.** All fees charged under this resolution shall be paid to the appropriate department of the records inspected and/or copied unless the Requester has established an open account, for purposes of billing and payment, with the City. All such

accounts must be approved in advance by City Administrator and a deposit may be required. All fees shall be receipted immediately and placed in the City's General Fund and receipted.

SECTION 9. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 10. That this resolution shall be in full force and effect beginning September 6, 2013.

PASSED AND ADOPTED this 5th day of August 2013.

Dennis M. Schuster, Mayor

Attest:

Linda S. Koch, City Clerk