



STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

MIKE HILGERS
ATTORNEY GENERAL

LESLIE S. DONLEY
ASSISTANT ATTORNEY GENERAL

November 18, 2025

Via email to [REDACTED]
David Gentry
[REDACTED]

RE: *Public Records Matter Involving the Omaha Fire Department*
Our File No. 20251140

Dear Mr. Gentry:

This letter is in response to your formal complaint received by this office on November 3, 2025, pertaining to a fee dispute with the Omaha Fire Department (OFD). We construed your complaint to be a petition for review under § 84-712.03(1)(b) of the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2024).¹ At our request, Deputy City Attorney Bernard J. in den Bosch provided us a response to your petition on November 14. We considered your petition and Mr. in den Bosch's response in accordance with the NPRS, and our findings are set out below.

RELEVANTS FACTS

On October 21, 2025, you emailed Assistant Fire Marshal Sheena Glover asking her to "please let [you] know if [her] team is aware of any fire or life safety issues related

¹ The Attorney General is required to determine a petition seeking review of whether public records have properly been withheld or whether the fees estimated by the custodian are authorized "within fifteen calendar days after the submission of the petition." Neb. Rev. Stat. § 84-712.03(1)(b) (2024). The period within which an act must be done is "computed by excluding the day of the act, event, or default after which the designated period of time begins to run." Neb. Rev. Stat. § 25-2221 (Cum. Supp. 2024). You emailed your petition to this office on Saturday, November 1, which we received on Monday, November 3. The fifteen-day period in § 84-712.03(1)(b) commenced to run on the date of receipt, making November 18 the due date for the Attorney General's determination.

to” a certain building in the City of Omaha (City).² AFM Glover responded on October 28, informing you about the “Property Search Records” process and the associated fee of \$54. In response, you asserted the “fee appears to be in direct conflict with LB 43—Public Records Law (§ 84-712.03),” and you requested clarification. On October 31, AFM Glover informed you that Neb. Rev. Stat. § 81-505.01 authorizes the State Fire Marshal to delegate authority to local fire personnel “to establish and assess fees for certain services.” She further informed you the OFD adopted the 2012 International Fire Code and amended Section 105.7.24 “Real Estate title search request,” i.e.:

Requests to provide a report as to whether property at a particular address has been subject to a compliance notification, has had permits issued, or has had underground tanks shall be subject to a fee to offset the cost incurred in performing the search.

Real Estate Research Report \$50.00 per address minimum \$25.00 per hour of time to gather information after first hour

Lastly, AFM Glover informed you “Omaha Municipal Cod[e] Section 46-10 authorizes a technology fee of 8% of the underlying fee,” resulting in “a fee of \$54 for the report.”

You are challenging the fee on several grounds, summarized below:

1. You assert the requested information is a public record under § 84-712.01, thus the NPRS apply, “not . . . local fire prevention service authority.”
2. Under § 84-712.03(1)(b) [*sic*],³ only the actual added costs may be charged, and no special service charge may be assessed for the first eight hours of labor for Nebraska residents.
3. Municipal code and department policy cannot supersede state law, and that “§ 81-505.01 allows fees for fire prevention services—not for access to existing records.”
4. The technology fee is not tied to actual costs and is inconsistent with the cost limitations in § 84-712.03 [*sic*].

You have requested this office to: (1) investigate the OFD’s record fee practices; (2) determine whether the \$ 54 fee violates the NPRS; and (3) “[d]irect compliance, clarifying that no charge may be applied before eight hours of cumulative work and that public access cannot be conditioned on local fee ordinances.”

² We note you did not request records *per se* or cite to the NPRS.

³ The fee provisions in the NPRS pertaining to “actual added costs” and special service charges for Nebraska residents are found at Neb. Rev. Stat. § 84-712(3)(b) and (c).

Mr. in den Bosch states that under Neb. Rev. Stat. § 84-712(1), Nebraska residents and other interested persons have the right to access public records “[e]xcept as otherwise expressly provided by statute” He states Neb. Rev. Stat. § 81-502 permits the State Fire Marshal to delegate authority to local fire prevention personnel, and that the State Fire Marshal has done so for the City through an executed Delegation of Authority, dated December 13, 2024. Under this delegation, “the City of Omaha [may] enforce its fire and life safety codes.” The delegation also allows the City to adopt codes that are more stringent than the State Fire Code adopted by the State Fire Marshal pursuant to Neb. Rev. Stat. § 81-503.01(2).

Mr. in den Bosch states that § 81-505.01(1) addresses charging fees for services. This subsection provides, in part:

(1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal *or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services.* . . . Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. *Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.* (Emphasis added.)

He asserts that the last sentence “makes clear that the Legislature and the State Fire Marshal contemplated that local fire prevention personnel to whom authority was delegated would charge fees for services and would receive those fees.”

Mr. in den Bosch also points to additional authority in Neb. Rev. Stat. § 14-102(32), which allows a city of the metropolitan class (i.e., Omaha) to enact fire codes. Consequently, with the authority in § 14-102 and with the delegated authority from the State Fire Marshal pursuant to § 81-502, the City adopted the International Fire Code by Ordinance No. 40601 on December 22, 2015. Omaha Municipal Code Sec. 46-1 adopts the 2012 Edition of the International Fire Code, which provides, among other things, “for the issuance of permits and collection of fees”

With respect to the two fees at issue in your petition, Mr. in den Bosch states:

Omaha Municipal Code Section 46-3 amends certain sections of the 2012 International Fire Code. Section 113 of the amendment in Section 46-3 establishes the fee schedule for work performed by the [OFD]. The amendment to the Fire Code specifically authorizes the Real Estate title search request fee of \$50.00 per address and indicates what that document authorizes. The technology fee referenced in the response is based on Chapter 46, Article III and specifically established by Section 46-10. (Internal citations omitted.)

David Gentry
November 18, 2025
Page 4

Based on the foregoing, Mr. in den Bosch believes that a reasonable statutory construction authorizes the City to charge the fees at issue here.

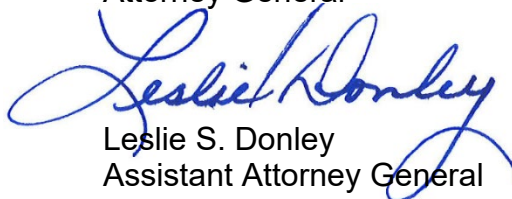
DISCUSSION

In 2000, Neb. Rev. Stat. § 84-712 was amended to permit citizens⁴ and interested persons to make copies of public records using their own copying equipment, and to obtain copies of public records from public agencies. See 2000 Neb. Laws LB 628, § 1. LB 628 also authorized the records custodian to charge a fee for providing copies of public records “[e]xcept as otherwise provided by statute” See Neb. Rev. Stat. § 84-712(3)(b). Based on our review of the statutes and ordinances cited above, it appears the exception applies to the charges the OFD may assess for making records available. This interpretation is consistent with the rule that, “[t]o the extent there is a conflict between two statutes, the specific statute controls over the general statute.” *In re Guardianship of Patrick W.*, 316 Neb. 381, 391, 4 N.W.3d 833, 841 (2024). Thus, we conclude the fee provisions in the City’s adopted fire code apply, not § 84-712 of the NPRS. As a result, no further review by this office is necessary and we are closing our file.

If you disagree with our conclusion, you may wish to discuss this matter with your private attorney to determine what other remedies may be available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Bernard in den Bosch (via email only)

49-3987-31

⁴ “Citizen” was replaced with “resident” with the enactment of 2024 Neb. Laws LB 43, § 8.