



Legislation Details (With Text)

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**File created:** 2/8/2008      **In control:** COMMON COUNCIL ORGANIZATIONAL COMMITTEE (ended 4/2017)  
**On agenda:** 8/5/2008      **Final action:** 8/5/2008  
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**Title:** AMENDED SUBSTITUTE - Repealing and recreating Section 3.70 of the Madison General Ordinances to modify portions of the City's policy regarding public records.

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**Indexes:**

**Code sections:**

**Attachments:** 1. Public Records Ordinance Changes Explained2-08.pdf, 2. 4016Version1.pdf, 3. Dist 2 comments on Leg File 09158, 4. B. Lueders: Registration Statement 7/1/08 CCOC meeting

Date	Ver.	Action By	Action	Result
8/5/2008	3	COMMON COUNCIL	Adopt the Following Friendly Amendment	Pass
8/5/2008	3	COMMON COUNCIL	Adopt With Amendment(s)	Pass
7/1/2008	2	COMMON COUNCIL ORGANIZATIONAL COMMITTEE (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
2/26/2008	1	COMMON COUNCIL	Refer	
2/8/2008	1	Attorney's Office/Approval Group	Referred for Introduction	

**Fiscal Note**

This ordinance change does not require an appropriation. The fee schedule to be developed for record requests could have a slight impact on revenues in the various agencies.

**Title**

AMENDED SUBSTITUTE - Repealing and recreating Section 3.70 of the Madison General Ordinances to modify portions of the City's policy regarding public records.

**Body**

DRAFTER'S ANALYSIS: This ordinance is designed to "fill in the gaps" in current public records laws as those laws apply to rapidly developing and recently emerging technologies. The Wisconsin Public Records laws have not been updated since their enactment in a manner that addresses their application to these developing and emerging technologies. This ordinance also adopts the state public records laws by reference eliminating the unnecessary duplication of those laws and conserving paper. The ordinance would also eliminate the current and outdated retention schedule and replace that system with a retention schedule established by APM. This would allow the retention schedule to be annually updated as new records or records systems are developed. The Director of Information Technology in consultation with the City Attorney would be responsible for developing the new retention schedule. By statute, this retention schedule would need the approval of the State Public Records Board. The ordinance also updates the fee charges for routine public records formats (such as printed copies) and also allows for waiver of fees for non-profit organizations. The ordinance also permits delivery of records in alternative formats such as the emailing of records.

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The Common Council of the City of Madison do hereby ordain as follows:  
Section 3.70 entitled "Public Records" of the Madison General Ordinances is repealed and recreated to read

as follows:

**“3.70 PUBLIC RECORDS.**

- (1) Declaration of Policy. A representative government is dependent upon an informed electorate and therefore it is declared to be the public policy of the City of Madison that all persons are entitled to the greatest possible information regarding the affairs of their government and the official acts of those officers and employees who represent them. Further, providing persons with such information is an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, this ordinance shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest and only in an exceptional case may access be denied. Therefore, the City of Madison does hereby adopt and incorporate, as though fully set forth herein, the provisions of Wisconsin’s Public Records laws, sec. 19.31 through 19.39, Wisconsin Statutes, inclusive of all future amendments and revisions to such sections of the Wisconsin Statutes. The following provisions are intended to supplement, not to replace or to supplant, the Wisconsin Public Records Laws.
- (2) Records Custodians.
  - (a) Designation of Records Custodians and Alternate Custodians - “Custodian” means that officer, department head or division head of the City of Madison who is designated by the Mayor or by the terms of this ordinance, to keep and preserve public records, or whom is required by law to file, deposit, or keep such public record in his/her office, or is lawfully in possession or lawfully entitled to possession of public records. The City Clerk is the legal custodian of the records of the Common Council as a body politic and for all Common Council boards, committees and commissions. Each alderperson shall be the custodian of their individual official records, such as their correspondence, memorandums and e-mail. Any alderperson may designate, in writing, the staff of the Common Council Office to act as the official custodian of the alderperson’s individual official records. For every Department or Division, the Department/Division Head is the custodian of records for their agency. Every custodian of records shall designate in writing one or more employees to act in his or her absence as an alternate custodian of such records.
  - (b) Duties - custodians are vested with full legal power to render decisions and carry out the duties of the City under this ordinance. Each custodian shall establish a procedure for handling records and shall see that all of their employees entrusted with records are informed of these procedures. If a custodian has any question about granting or denying a request to inspect or copy any record, he or she may consult with the City Attorney.
  - (c) Public Records Training - Each custodian and alternate custodian shall receive training regarding public records laws as soon as practicable upon receiving these duties. Custodians and alternate custodians are personally responsible for keeping current with any developments or advancements in records keeping and the Wisconsin Public Records Laws.
- (3) Procedural Information.
  - (a) Form of Request - The Wisconsin Public Records Law dictates that certain actions must be taken with regards to oral requests for records and that certain more formal actions are taken in response to written requests for records. However, the state law does not expressly state how to respond to the following methods of communication. Therefore, requests made by the following means shall be responded to as follows:
    1. E-mail - a request made by e-mail may be responded to via e-mail or in writing and shall have all of the formalities as though the request was made in writing.
    2. Voice-mail - a request made by voice-mail shall be responded to as though it were made orally.
    3. Instant Messaging/Text Messaging - a request made in either such manner shall be treated as an oral request.

- (b) Treatment of Certain Data As Records - the Wisconsin Public Records Law provides little or no guidance as to whether the raw and perishable data of the following technologies qualify as records that must be maintained. Therefore the Common Council determines the following status of these technologies:
1. E-mail - the data in an e-mail message may constitute a public record and is subject to maintenance as a public record. The data in an e-mail is subject to the same analysis under the public records statutes as an equivalent paper or hard copy record. The Information Technology Department is responsible for ensuring that all e-mails are properly preserved for such analysis.
  2. Voice-mail - a voice-mail message is not a public record and voice-mail messages do not have to be maintained as public records. These messages are the functional equivalent of phone conversations. Phone conversations clearly are not public records. Additionally, these messages also share many of the attributes of "personal notes" which are not public records either. Finally, these messages cannot be indexed or maintained in any manner that would allow for their easy classification, searching or retrieval.
  3. Instant Messaging (IM)/Text Messaging (TM) - Except as set forth in this paragraph and in subparagraph (3)(b)9 and 10 hereof, the data involved in IM/TM communications is not subject to maintenance as a public record. IM/TM has all of the attributes of instantaneous exchange of ideas, as does a regular telephone conversation. Furthermore, the data exchange has the same technological issues as to capturing and storage of data that is present with regards to voice-mail with an additional concern - the raw data is often only briefly stored or not stored at all by the third party vendors or hosts that provide these services. Thus, this technology is even closer to a true telephone conversation than are voice-mails. Therefore, City employees and officials shall refrain from using such services for official communications purposes or for matters that would result in a public record if another format such as email or written communications were employed. ~~In the event that IM/TM are used for such communications purposes the unless the~~ employee or official **shall preserve** a copy of such communications by either copying them to their email account, downloading the communications to their city computer, making a computer file of the communications or by printing and retaining a copy of such communications.
  4. Voice Over the Internet Protocol (VOIP) - The City does not monitor nor record the data associated with the conversations that occur over VOIP. Such conversations are the very same real time voice communications as standard telephone conversations that are not public records. The only difference between these communications is the medium employed in transmitting the voice communications from one participant in the conversation to all others involved in the conversation.
  5. Audio, Video, Data Transmissions & Communications - Although audio, video, data and radio transmissions and communications may be processed through city computers, the City does not routinely copy the data nor maintain records of such communications. Whenever the City copies, records or maintains copies or recordings of such communications or transmissions, those copies may constitute public records that are subject to records requests and which must be maintained according to the appropriate records retention schedule. The Dane County 9-1-1 center is the custodian for police and fire radio communications.
  6. Audio/Video Recordings - Unless otherwise provided herein, are public records subject to requests and must be maintained according to the retention schedules published herein.
    - a. Rewritable Recording Systems - Those systems where the recordings

- are routinely overwritten by newer recordings, such as in continuous loop videotape or digital video written to a camera's hard drive or memory, such data does not constitute a record unless it is further downloaded, printed or separately preserved to memorialize some event or proceeding. Until such time as these recordings are downloaded, printed or separately preserved, these recordings do not have to be preserved and, as the recording equipment programs/protocols may dictate, can be overwritten, erased or otherwise destroyed. However, if such data is downloaded, printed, or separately preserved it shall be treated as a record and shall be retained in accordance with the retention schedules.
- b. Recordings made for the purpose of preparing minutes of meetings - In accordance with sec. 19.21(7), Wis. Stats., any tape recording of a meeting, as defined in sec. 19.82(2), Wis. Stats., by any city body as defined by sec. 19.82(1), to include each City board, commission and committee, may be destroyed, overwritten, or recorded over no sooner than ninety (90) days after the minutes have been approved and published if the purpose of the recording was to take minutes of the meeting.
7. Electronic Document Files - Where records, as that term is defined in sec. 19.32 (2) Wis. Stats., exist in an electronic format only, such electronic records shall be maintained according to the appropriate retention schedule. Where both hard copy (i.e., paper) and electronic copies of a record exist they shall each be subject to public records requests. However, when the custodian has designated, pursuant to sub. (9) electronic records as the official records, only the electronic copy shall be retained and made available for inspection under the public records laws. Where the custodian has not made such a designation, only the hard copy shall be subject to inspection as a public record and the electronic copies shall be treated and disposed of as draft documents that do not need to be maintained beyond creation of the final hard copy.
  8. Electronic logs/Temporary data files - These logs and temporary data files provide detailed information about the design and functionality of the city's computer network. These logs are routinely overwritten on a daily basis due to the high volume of traffic that is being logged. Unrestricted access to these logs and files would constitute a breach of system security and leave the system vulnerable to exploitation and hacking. In order to ensure network security, these logs are available to Information Technology Director's authorized staff only. These determinations apply to the following types of logs and data files:
    - a. Syslogs for network electronic devices - All logs created by network devices such as firewalls, routers, switches, etc., which are used for monitoring and trending computer network traffic patterns and/or detecting unauthorized network traffic.
    - b. Network server security, application and event logs - These logs are used to monitor activity on city network servers including successful/unsuccessful login attempts, file system access, hardware performance, etc. These logs provide detailed information about city network account ID's, file system structure, and hardware profiles.
    - c. Network security appliance logs - All logs created by network security devices such as the anti-virus appliance, anti-SPAM appliance, content filtering appliance, etc., which are used to monitor specific types of unauthorized or malicious traffic on the city network. These logs identify specific network traffic patterns and/or protocols that are allowed or disallowed on the city network.
    - d. Application logs - These logs are used to monitor activity on various

database applications, but do not contain specific audits of database transactions. These logs can contain version information, program variables, and programming logic.

9. Emerging Technologies and Records Retention - As new information technologies emerge the Director of Information Technologies shall evaluate these technologies and their benefit to City operations. The Director shall consider whether any of these technologies provide the capacity to archive public records created by these technologies. Whenever it is economically and practically feasible to archive records created by such technologies that archiving shall be incorporated into any deployment of said technologies. Whenever the technologies do not provide for such archiving capabilities the Director of Information Technology shall consider whether the benefits of employing such technologies outweigh the risks that some public records may not be retained by deployment of such technologies. Where such benefits outweigh these risks City employees shall refrain from using such technologies for official communications purposes or for matters that would result in a public record if another format such as email or written communications were employed. In the event that such technologies are used for such communications purposes the employee shall preserve a copy of such communications by either copying them to their email account, downloading the communications to their city computer, making a computer file of the communications or by printing and retaining a copy of such communications. The Director shall also ensure that, as soon as practical and economically feasible, archiving systems are obtained for any information technology that is deployed without an archiving system.
10. Use of Technologies to Avoid Duty to Preserve Public Records Prohibited - No employee shall use or employ any form of communications or information technology with the intent or design to circumvent the records retention requirements of this ordinance. For example, Text Messaging shall not be used in lieu of email to share or create a public record unless the employee complies with the provisions of subparagraph (3)(b)(9), above.

(4) Access to Records; Fees.

(a) Format For Delivery of Records

1. Same Format as Record Exists & Redacted Records - Except as otherwise provided by law, any requester may receive **or inspect** a record in the very same format in which the City maintains the record. However, whenever it is necessary to redact or excise portions of a record in order to comply with the Wisconsin Public Records Laws, the redactions shall be made with the assistance of the Information Technology Department. Whenever electronic redaction or excisions cannot be done in a secure manner that preserves such redactions and prevents the viewing of the redacted information then such redactions should be made by hand, not electronically, and the requestor shall only receive a hard copy, not an electronic copy, of the redacted record. A requestor may not be charged for the time necessary to review a record and to redact or excise non-releasable materials.
2. E-mailing Records - When practicable, records may be e-mailed to the requestor. In order to ensure the integrity of City records, any e-mailed document shall be converted to a secure format prior to sending the document to anyone outside of the City government. There shall not be any reproduction charge for e-mailing records, however, such records may still be subject to payment of a location fee as established in sec. 19.35(3)(c), Wis. Stats.

(b) Reproduction Fees. To the extent possible, the Director of Information Technology and the Comptroller shall develop a uniform fee schedule for the reproduction of records that shall be used by every department and division. Such schedule shall include the following provisions and considerations:

1. Fees imposed upon a records requestor may not exceed the actual, necessary

- and direct costs of reproducing and/or transcribing of the record, unless a fee is otherwise specifically established or authorized by state or federal law.
2. If the record exists in such a format that it cannot be easily reproduced, such as a mock-up of a building, then the custodian may photograph the record and may charge the requestor for the actual, necessary and direct costs of such photographing and photographic processing.
  3. The fee schedule for photocopying records shall be:
    - a. No charge for copying records of which in the normal course of business ten (10) or more copies are made, such as agendas, minutes and reports;
    - b. Full cost of reproduction for materials such as films, tapes, computer printouts, etc. not otherwise identified in the schedule developed under this subsection. In such cases, the Department/Division Head who is the records custodian, in consultation with the City Comptroller, must determine the costs for reproduction of such records. The determination of these costs shall be made by utilizing a practice or factors that are as uniform as practicable across City departments/divisions.
    - c. Other Fees.
      - i. Location Fee. If the cost of locating a requested record is fifty dollars (\$50) or more, the requester shall pay the full cost, as determined by the department or division head. Such cost shall not exceed the actual, necessary and direct cost of locating such record. Whenever it is determined that such location costs will exceed fifty dollars (\$50) the requestor shall be required to post a deposit with the custodian that is equal to the reasonable good faith estimate of such costs.
      - ii. Mailing Fee. Custodians shall impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or record that is mailed or shipped to the requester.
    - d. Fee Waivers. A custodian may provide copies of a record without charge or at a reduced charge where the department or division head determines ~~in writing~~ that waiver or reduction of the fee is in the public interest. The Common Council has determined that for all requests of twenty-five dollars (\$25.00) or less it is in the public interest to waive reproduction/duplications fees for all non-profit 501(c)3 corporations.
    - e. Prepayment of Fees. Custodians may require prepayment by a requester of any fee or fees imposed under this Subdivision if the total amount exceeds five dollars (\$5) and a custodian shall require prepayment by a requester of any fee or fees imposed under this subdivision if the total amount exceeds fifty dollars (\$50). If prepayment is required, the custodian shall not process the request until such prepayment has been posted with the custodian.

(5) Special Rules Regarding Reproduction of E-mail Records

- (a) Reproducing E-mails Dated Earlier than April 1, 2004 - E-mails dated April 1, 2004 or before were not stored in an archive. The restoration and location of these e-mails is difficult and labor intensive. Such requests often take more than thirty (30) days to comply with due to labor and technical issues. Custodians who receive requests for these records should inform the requestor of these issues. Such requests must be immediately forwarded to the Information Technology Director who may prepare an estimate of the actual, necessary and direct cost of locating such records and whom shall provide technical assistance to the custodian.
- (b) Reproducing E-mails Dated April 1, 2004 or Later - All City of Madison e-mail transactions dated April 1, 2004 or later have been preserved in a searchable data archive. When requests are made for such records, custodians should clarify with the

- requestor, the various search terms and e-mail boxes that the requestor would have the City search for. Once the requestor has specified search terms, the custodian should contact the Information Technology Director for technical assistance in fulfilling the request.
- (c) E-mail chains - e-mails are often sent to multiple recipients. A requestor will be provided with one copy of such an e-mail and all responses to that e-mail. Unless a requestor specifically requests otherwise, they will not be provided with multiple copies of such an e-mail showing receipt by each of the designated e-mail recipients.
- (6) Time for Compliance and Procedures.
- (a) Time - The fulfillment of public records requests is a high priority for the City. Therefore, each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of her/his determination to deny the request in whole or in part and the reasons therefore. If a request may take more than ten (10) business days to process, then the custodian must respond to the requestor within those ten days with an estimate of when such processing shall be completed and an explanation of the reasons supporting that estimate.
- (b) City Attorney Consultation Required - Before any custodian may deny access to any records or portion thereof, the custodian must consult with the City Attorney. Such consultation shall occur as soon as practicable after the custodian has assembled and reviewed the requested record. In any response to a requestor, the custodian shall include a statement that he or she consulted the City Attorney regarding the denial of access to any records. Any denial of access made by a custodian without such consultation and statement is not considered a response from the City of Madison.
- (7) No Destruction of Records While a Request is Pending or While a Denial of a Request is Being Appealed. No custodian may destroy any record at any time after the receipt of a request for inspection or copying of the record until after the request is granted or until at least sixty (60) days after the date that the request is denied. If any legal action is pending regarding or related to the record, the record may not be destroyed without the express authorization of the City Attorney. No record that is the object of or which has been produced pursuant to a discovery order or a subpoena may be destroyed without the express consent of the City Attorney.
- (8) Retention Schedules. The City, in accordance with sec. 19.21(4)(b) and 16.61(3)(e). Wis. Stats. adopts the following records retention schedules:
- (a) Retention Schedule For Records Created Prior to January 1, 2008 All records created or maintained prior to January 1, 2008 shall continue to be preserved in accordance with the records retention schedules existing at the time the records were created.
- (b) Retention Schedule For Records Created January 1, 2008 and thereafter For all records created January 1, 2008 and thereafter, the Information Technology Director, in consultation with the City Attorney, shall develop the City of Madison's Records Retention Schedule and such records shall be maintained in accordance with the provisions of that schedule. Such schedule must be approved by the Wisconsin Public Records Board and published by the Mayor in an Administrative Procedure Memorandum that also contains any other relevant conditions for the maintenance, storage or disposition of City records. In the event that such a records retention schedule is not published by the Mayor as approved by the Wisconsin Public Records Board, all previously adopted City records retention schedules shall remain in full force and effect until such time as a records retention schedule is adopted in accordance with this subsection.
- (c) Records that are Evidence No record may be destroyed that has been identified as, or that may have value as, evidence in any civil or criminal legal proceeding, labor arbitration or disciplinary action. No record may be destroyed at any time within sixty (60) days of the denial of a request to review the record or any part thereof.
- (d) Compliance with Federal or Other Retention Requirements Notwithstanding the City of Madison Records Retention Schedule set forth in sub. (9)(A) above, custodians may not

destroy any record where any contract, grant, funding conditions, state or federal statute require that such records be maintained for a longer period of time.

(e) Offer of Records to State Historical Society Before Destruction The City is required to offer all obsolete records to the State Historical Society in accordance with sec. 19.21(4)(a), Wis. Stats., prior to destruction of those records. The Information Technology Director or any Department/Division Head, may apply to the State Historical Society for a waiver of this requirement as to certain categories of records under such person's authority that they reasonably believe have little or no significant historical value.

- (9) Electronic Formatting or Other Reproduction of Records. Any City officer, or the director of any department or division of City government may, with the approval of the Mayor, and after consulting with the Director of Information Technology, may retain and preserve public records in his/her possession by means of microfilm, or another reproduction method, optical imaging or electronic formatting. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats. (2001-2002 Wis. Admin. Code § PR 1 (current through Wis. Admin. Reg. No. 467, Nov. 1994) and Wis. Admin. Code § Adm. 12 (current through Wis. Admin. Reg. 554, Feb. 2002). Such records shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Subsections (1) through (3) of this ordinance. The original hardcopy of any document or record which has been converted to and which is also maintained as a microfilm, optical imaging, electronic formatting or other reproduction in accordance with this section may be destroyed in compliance with Subsection (7) of this ordinance.
- (10) Severability. The provisions of this ordinance are severable. If any provision of this ordinance is held to be invalid or unconstitutional or if the application of any provision of this ordinance to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared the intent of the Common Council that this ordinance would have been adopted had any invalid or unconstitutional provision or applications not been included herein."

EDITOR'S NOTE:

Section 3.70 currently reads as follows:

**3.70 PUBLIC RECORDS.**

- (1) Declaration of Policy. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of the City of Madison that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, this ordinance shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest and only in an exceptional case may access be denied.
- (2) Definitions.
- "Authority" means any of the following having custody of a record: any city office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by statute, charter, ordinance, resolution, rule, or order, and any government or quasi-government corporation as provided in §19.32(1), Wis. Stats.
- "Employee" means any individual who is employed by an authority, other than an individual holding local public office or a state public office, or any individual who is employed by an employer other than an authority.
- "Legal Custodian" means that officer, department head or division head of the City of Madison who is designated by the Mayor to keep and preserve the requested public record, or



required by law to file, deposit, or keep such public record in his/her office, or is lawfully in possession or lawfully entitled to possession of the requested public records. The City Clerk is the legal custodian of the records of the Common Council. The chairperson of a committee of the Common Council, or the designee of the chairperson, is the legal custodian of the records of the committee. For boards, committees and commissions, the department head or division head responsible for providing staff services to the board, committee, or commission is legal custodian of the records of the board, committee or commission.

"Local public office" has the meaning given in s. 19.42 (7w), Wis. Stats., and also includes any appointive office or position of the City in which an individual serves as the head of a department, agency, or division of the local governmental unit, but does not include any office or position filled by a municipal employee, as defined in s. 111.70 (1) (i), Wis. Stats.

"Person authorized by the individual" means the parent, guardian, as defined in Sec. 48.02 (8) Wis. Stats. (1992), or legal custodian, as defined in Wis. Stats. 48.02 (11) (1992), of a child, as defined in Wis. Stats. 48.02 (2) (1992), the guardian, as defined in Wis. Stats. 880.01 (3) (1992), of an individual adjudged incompetent, as defined in Wis. Stats. 880.01 (4) (1992), the personal representative or spouse of an individual who is deceased or any person authorized, in writing, by the individual to exercise the rights granted under this section.

"Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

"Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by a City department or division, board, committee or commission. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

"Records series" means records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity or have a particular form.

"Record subject" means an individual about whom personally identifiable information is contained in a record.

"Requestor" means any person who requests inspection or copies of a record.

(3) Legal Custodians.

(a) The legal custodian shall be vested with full legal power to render decisions and carry out the duties of the City under this ordinance. Each legal custodian shall establish a procedure for handling records and shall see that all employees entrusted with records subject to the legal custodian's supervision are informed about the procedure. If a legal custodian has any question about granting or denying a request to inspect or copy any record, he or she shall consult with the City Attorney.

(b) Every legal custodian of records shall designate in writing one or more employees to act as legal custodian of such records in her or his absence or as otherwise required to respond to requests for inspection and copying of records as provided in Subsection (6) herein.

(4) Procedural Information.

(a) Each department, division, or authority shall adopt, prominently display and make available for inspection and copying at each of its offices or buildings, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian under Subsec. (2)(c) from whom, and the

methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. The notice shall also separately identify each position of the department, division or authority that constitutes a local public office.

- (b) Each department or division which maintains regular office hours at the location where records in the custody of the department or division are kept shall permit access to the records of the department or division at all times during those office hours unless otherwise specifically authorized by law.
  - (c) Each department or division that does not maintain regular office hours at the location where records in the custody of the authority are kept shall:
    - 1. Permit access to its records upon at least 48 hours' written or oral notice of intent to inspect or copy a record; or
    - 2. Establish a period of at least 2 consecutive hours per week during which access to the records of the department or division is permitted. In such case, the department or division may require 24 hours' advance written or oral notice of intent to inspect or copy a record.
  - (d) A department or division imposing a notice requirement under Subdiv. (c) above shall include a statement of the requirement in its notice under Subdivision (a) above.
  - (e) If a record of a department or division, board, committee, or commission, is occasionally taken to a location other than the location where records of the department or division, board, committee, or commission are regularly kept, and the record may be inspected at the place at which records of the department or division, board, committee or commission are regularly kept upon one business day's notice, the department or division, board, committee or commission or legal custodian of the record need not provide access to the record at the occasional location.
- (5) Access to Records; Fees.
- (a) Right to Inspection
    - 1. Except as otherwise provided by law, any requester has a right to inspect any record. Substantive common law principles construing the right to inspect, copy or receive copies of records shall remain in effect. The exemptions contained in this ordinance are indicative of public policy, but may be used as grounds for denying public access to a record only if the legal custodian under Subsection (3) makes a specific demonstration that there is a need to restrict public access at the time that the request to inspect or copy the record is made.
    - 2. In addition to any right under par. 1., any requester who is an individual or person authorized by the individual, has a right to inspect any record containing personally identifiable information pertaining to the individual that is maintained by the City of Madison and to make or receive a copy of any such information. The right to inspect or copy a record under this paragraph does not apply to any of the following:
      - a. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding.
      - b. Any record containing personally identifiable information that, if disclosed, would do any of the following:
        - i. Endanger an individual's life or safety.
        - ii. Identify a confidential informant.
        - iii. Endanger the security of any state correctional institution, as defined in Wis. Stats. 301.01(4), jail, as defined in Wis. Stats. 165.85(2)(bg), secured correctional facility, as defined in Wis. Stats. 48.02(15m), mental health institute, as defined in Wis. Stats. 51.01(12), center for the developmentally disabled, as defined in

- Wis. Stats. 51.01(3), or the population or staff of any of these institutions, facilities or jails.
- iv. Compromise the rehabilitation of a person in the custody of the department of corrections or detained in a jail or facility identified in subdiv. b.iii.
  - c. Any record that is part of a records series, as defined in this ordinance that is not indexed, arranged or automated in a way that the record can be retrieved by use of an individual's name, address or other identifier.
3. Except as otherwise provided by law, any requester has a right to inspect a record and to make or receive a copy of a record which appears in written form. If a requester appears personally to request a copy of the record, the department or division, board, committee or commission having custody of the record may, at its option, permit the requester to photocopy the record or provide the requester with a copy substantially as readable as the original.
  4. Except as otherwise provided by law, any requester has a right to receive from the department or division, board, committee or commission having custody of a record which is in the form of a comprehensible audio tape recording a copy of the tape recording substantially as audible as the original. The legal custodian may instead provide a transcript of the recording to the requester if he or she requests.
  5. Except as otherwise provided by law, any requester has a right to receive from a department or division, board, committee or commission having custody of a record which is in the form of a video tape recording a copy of the tape recording substantially as good as the original.
  6. Except as otherwise provided by law, any requester has a right to receive from a department or division, board, committee or commission having custody of a record which is not in a readily comprehensible form a copy of the information contained in the record assembled and reduced to written form on paper.

If a custodian receives a request to inspect or copy a record that is in handwritten form or a record that is in the form of a voice recording which the custodian is required to withhold or from which the custodian is required to delete information under Subsection (13) of this ordinance because the handwriting or the recorded voice would identify an informant, the custodian shall provide to the requester, upon her or his request, a transcript of the record or the information contained in the record if the record or information is otherwise subject to public inspection and copying under this subsection.
  7. Except as otherwise provided by law, any requester has a right to inspect any record not specified in Paragraphs 3. to 6. the form of which does not permit copying. If a requester requests permission to photograph the record, the department or division, board, committee or commission having custody of the record may permit the requester to photograph the record. If a requester requests that a photograph of the record be provided, the department or division, board, committee or commission shall provide a good quality photograph of the record.
  8. Paragraphs 1. to 4., 6. and 7. do not apply to a record which has been or will be promptly published with copies offered for sale or distribution.
  9. A request under Paragraphs 1. to 7. is deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under state law.
  10. Except as authorized under this paragraph, no request under paragraphs 1. to 7. may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. Except as authorized under this paragraph, no request under paragraphs 1. to 7. may be refused because the request is received by mail, unless prepayment of a fee is required under Subsection (5)(c)3. A requester may be required to show acceptable identification whenever security reasons or federal law or regulations so require.

11. Notwithstanding paragraphs 1. to 7. a requester shall comply with any regulations or restrictions upon access to or use of information which are specifically prescribed by law.
  12. Notwithstanding paragraphs 1., 3. and 7., a legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
  13. Except as necessary to comply with paragraphs 4. to 6. or Subsection (9)(m), this subsection does not require a department or division, board, committee or commission to create a new record by extracting information from existing records and compiling the information in a new format.
- (b) Facilities. The legal custodian shall provide any person who is authorized to inspect or copy a record under Subsection (5) (a) 1., 2., or 7. with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. A department or division, board, committee or commission is not required by this Subsection to purchase or lease photocopying, duplicating, photographic or other equipment or to provide a separate room for the inspection, copying or abstracting of records.
- (c) Fees.
1. A legal custodian may impose a fee upon the requestor of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.
  2. Except as otherwise provided by law or as authorized to be prescribed by law a legal custodian may impose a fee upon the requestor of a copy of a record that does not exceed the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying
  3. The fee schedule for locating and copying records available under these rules is as follows:
    - a. No charge for copying records of which in the normal course of business ten (10) or more copies are made, such as agendas, minutes and reports;
    - b. Twenty-five cents (\$.25) per copied sheet for other records which may be readily copied by means of xerography; and fifty cents (\$.50) per copied sheet of microfilm reproductions of public records;
    - c. Full cost, as determined by the department or division head, of reproduction for materials such as films, tapes, computer printouts, etc.
    - d. If the cost of locating a requested record is fifty dollars (\$50) or more, the requester shall pay the full cost, as determined by the department or division head. Such cost shall not exceed the actual, necessary and direct cost of locating such record.
    - e. A legal custodian may impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.
    - f. A legal custodian may provide copies of a record without charge or at a reduced charge where the department or division head determines that waiver or reduction of the fee is in the public interest.
    - g. A legal custodian may require prepayment by a requester of any fee or fees imposed under this Subdivision if the total amount exceeds five dollars (\$5).
- (6) Time for Compliance and Procedures.
- (a) Each legal custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of her/his determination to deny the request in whole or in part and the reasons therefore.
  - (b) If the request is made orally, the legal custodian may deny the request orally unless a demand for a written statement of the reasons for denying the request is made by the

requester within five (5) business days of the oral denial. If a legal custodian denies a written request in whole or in part, the requester shall receive from the legal custodian a written statement of the reasons for denying the request. Copies of such statement shall be furnished immediately to the Mayor and the City Attorney. Every written denial of a request by a custodian shall inform the requester that if the request for the record was made in writing, then the determination is subject to review in an action for mandamus under Sec. 19.37(1) Wis. Stats. or upon application to the attorney general or the district attorney.

- (c) If a legal custodian receives a request under Subsec.(5)(a)1 or 2. from an individual or person authorized by the individual who identifies herself or himself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information pertaining to the individual that is maintained by the legal custodian, the legal custodian shall deny or grant the request in accordance with the following procedure:
  1. The legal custodian shall first determine if the requester has a right to inspect or copy the record under Subsec. (5)(a)1.
  2. If the legal custodian determines that the requester has a right to inspect or copy the record under Subsec. (5)(a)1., the legal custodian shall grant the request.
  3. If the legal custodian determines that the requester does not have a right to inspect or copy the record under Subsec. (5)(a)1., the legal custodian shall then determine if the requester has a right to inspect or copy the record under Subsec. (5)(a)2. and grant or deny the request accordingly.

- (d) In this ordinance, when a time period is provided for performing an act, whether the period is expressed in hours or days, the whole of Saturday, Sunday, and any legal holiday, from midnight to midnight, shall be excluded in computing the period

- (7) (a) Record Destruction. No department or division, board, committee or commission may destroy any record at any time after the receipt of a request for inspection or copying of the record under Subsection (5) until after the request is granted or until at least sixty (60) days after the date that the request is denied. If an action is commenced under Sec. 19.37 Wis. Stats., the requested record may not be destroyed until after the order of the court in relation to such record is issued and

the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the requested record may not be destroyed until after the request for inspection or copying is granted.

- (b) Notice to State Historical Society. Prior to the destruction of any official record, including the original hardcopy of any document, tape recording or other record which has been converted to and which is also maintained as a microfilm, optical imaging, electronic formatting or other reproduction in accordance with Subsection (17) of this ordinance, the Custodian shall provide at least 60 days notice in writing of such destruction to the State Historical Society. The State Historical Society may take custody and preserve any records which it determines to be of historical interest. Custodians may request in writing that the State Historical Society waive such notice for any records series or type that the State Historical Society determines lack historical interest. Custodians shall retain any such waiver for so long as that record series or type specified in the waiver is maintained by the Custodian.

- (8) Elected Official Responsibilities. No elected official is responsible for the record of any other elected official unless she or he has possession of the record of that other official.

- (9) Limitations Upon Access and Withholding. The following matters shall be exempt from disclosure under the provisions of this ordinance, only if the legal custodian determines that the public interest in nondisclosure outweighs the public interest in open access.

- (a) Application of Other Laws. Any record which is specifically exempted from disclosure by State or Federal law, or authorized to be exempted from disclosure by state law is

- exempt from disclosure under Subsection (5)(a) of this ordinance, except that any portion of that record which contains public information is open to public inspection as provided herein.
- (b) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of deliberations concerning a case which was the subject of any judicial or quasi-judicial trial or hearing.
  - (c) Pursuant to Sec. 19.85(1)(b), Wis. Stats., records of deliberations concerning dismissal, demotion, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
  - (d) Pursuant to Sec. 19.85(1)(c), Wis. Stats., records of consideration of employment, promotion, compensation or performance evaluation data of any City officer or employee.
  - (e) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.
  - (f) Pursuant to Sec. 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons, records concerning preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where Subdiv. (c) applies which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data, or involved in such problems or investigations
  - (g) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the City and any officer, agent, or employee of the City, when advice is being rendered concerning strategy with respect to litigation in which the City or any of its officers, agents, or employees is or is likely to become involved, or communications which are privileged under Wis. Stat. 905.03.
  - (h) Law Enforcement Records. Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning strategy for crime detection or prevention. In addition, except as otherwise provided by law, whenever federal law or regulations require that any record relating to investigative information obtained for law enforcement purposes be withheld from public access, then that information is exempt from disclosure under Subsec. (5)(a)1.
  - (i) Contractors' Records. Pursuant to Sec. 19.36(3), Wis. Stats., each department or division, board, committee or commission shall make available for inspection and copying under Subsec. (5)(a)1. any record produced or collected under a contract entered into by the City with a person other than the City to the same extent as if the record were maintained by the City. This Subdiv. does not apply to the inspection or copying of a record under Subsec. (5)(a)2.
  - (j) Computer Programs and Data. Pursuant to Sec. 19.36(4) Wis. Stats., a computer program, as defined in Sec. 16.97(4)(c) Wis. Stats., is not subject to examination or copying under Subsec. (5)(a)1., but the material used as input for a computer program or the material produced as a product of the computer program is subject to the right of examination and copying, except as otherwise provided in Sec. 19.35, Wis. Stats., or Subsec. (5) of this ordinance.
  - (k) Trade Secrets. Pursuant to Sec. 905.08, Wis. Stats., trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
  - (l) Pursuant to 60 O.A.G. 285 (1971), records obtained under a clear pledge of confidentiality, if the pledge was made in order to obtain the information contained in them and was necessary to obtain the information contained in them.
  - (m) If a record contains information that may be made public and information that may not be made public, the custodian shall provide the information that may be made public

- and delete the information that may not be made public from the record before release.
- (10) Public Library Circulation Records. Pursuant to Sec. 43.30, Wis. Stats., records of the Madison Public Library indicating which of its documents or other materials have been loaned to or used by an identifiable individual may not be disclosed except to persons acting within the scope of their duties in the administration of the library or library system or person authorized by the individual to inspect such records, or by order of a court of law.
- (11) Identities of Applicants for Public Positions.
- (a) In this section, “final candidate” means each applicant for a position who is seriously considered for appointment or whose name is certified for appointment and whose name is submitted for final consideration to an authority for appointment to any local public office. “Final candidate” includes, whenever there are at least 5 candidates for an office or position, each of the 5 candidates who are considered most qualified for the office or position, and whenever there are less than 5 candidates for an office or position, each such candidate. Whenever an appointment is to be made from a group of more than 5 candidates, “final candidate” also includes each candidate in the group.
- (b) Every applicant for a position with the City may indicate in writing that the applicant does not wish the City to reveal her or his identity. Except with respect to a final candidate, if an applicant makes such an indication in writing, the City shall not provide access to any record related to the application that may reveal the identity of the applicant.
- (12) Identities of Law Enforcement Informants.
- (a) In this subsection:
1. “Informant” means an individual who requests confidentiality from a law enforcement agency in conjunction with providing information to that agency or, pursuant to an express promise of confidentiality by a law enforcement agency or under circumstances in which a promise of confidentiality would reasonably be implied, provides information to a law enforcement agency or, is working with a law enforcement agency to obtain information, related in any case to any of the following:
    - a. Another person who the individual or the law enforcement agency suspects has violated, is violating or will violate a federal law, a law of any state or an ordinance of any local government.
    - b. Past, present or future activities that the individual or law enforcement agency believes may violate a federal law, a law of any state or an ordinance of any local government.
  2. “Law enforcement agency” has the meaning given in Sec. 165.83(1)(b), Wis. Stats., and includes the Department of Corrections.
- (b) If a legal custodian that is a law enforcement agency receives a request to inspect or copy a record or portion of a record under Subsection (5) that contains specific information including but not limited to a name, address, telephone number, voice recording or handwriting sample which, if disclosed would identify an informant, the authority shall delete the portion of the record in which the information is contained or, if no portion of the record can be inspected or copied without identifying the informant, shall withhold the record unless the legal custodian of the record, designated under Subsection (3), makes a determination, at the time that the request is made, that the public interest in allowing a person to inspect, copy or receive a copy of such identifying information outweighs the harm done to the public interest by providing such access.
- (13) Rights of Data Subject to Challenge; Corrections by Legal Custodian.
- (a) Except as provided under Subdiv.(b), an individual or person authorized by the individual may challenge the accuracy of a record containing personally identifiable information pertaining to the individual that is maintained by the legal custodian if the individual is authorized to inspect the record under Wis. Stats. 19.35 (1)(a) or (am) and the individual notifies the legal custodian, in writing, of the challenge. After receiving the notice, the legal custodian shall do one of the following:

1. Concur with the challenge and correct the information.
  2. Deny the challenge, notify the individual or person authorized by the individual of the denial and allow the individual or person authorized by the individual to file a concise statement setting forth the reasons for the individual's disagreement with the disputed portion of the record.
- (b) This Subsection does not apply to any of the following records:
1. Any record transferred to an archival depository under Wis. Stats. 16.61 (13).
  2. Any record pertaining to an individual if a specific state statute or federal law governs challenges to the accuracy of the record.
- (14) Notices to Records Subjects of Public Employee and Local Public Official Records.
- (a) Except as authorized in this section or as otherwise provided by statute, no authority is required to notify a record subject prior to providing to a requester access to a record containing information pertaining to that record subject, and no person is entitled to judicial review of the decision of an authority to provide a requester with access to a record.
1. Except as provided in Pars. 2. and 3. and as otherwise authorized or required by statute, if a custodian decides under this ordinance to permit access to a record specified in this paragraph, the custodian shall, before permitting access and within 3 days after making the decision to permit access, serve written notice of that decision on any record subject to whom the record pertains, either by certified mail or by personally serving the notice on the record subject. The notice shall briefly describe the requested record and include a description of the rights of the record subject under Pars. 4. and 5. This paragraph applies only to the following records:
    - a. A record containing information relating to an employee that is created or kept by the custodian and that is the result of an investigation into a disciplinary matter involving the employee or possible employment-related violation by the employee of a statute, ordinance, rule, regulation, or policy of the employee's employer.
    - b. A record obtained by the custodian through a subpoena or search warrant.
    - c. A record prepared by an employer other than a custodian, if that record contains information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information.
  2. Paragraph 1. does not apply to a custodian who provides access to a record pertaining to an employee to the employee who is the subject of the record or to his or her representative to the extent required under s. 103.13, Wis. Stats., or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain or pursuant to a collective bargaining agreement under ch. 111, Wis. Stats.
  3. Paragraph 1. does not apply to access to a record produced in relation to a function specified in s. 106.54, Wis. Stats. or 230.45, Wis. Stats. or subch. II of ch. 111, Wis. Stats., if the record is provided by a custodian having responsibility for that function.
  4. Within 5 days after receipt of a notice under Par. 1., a record subject may provide written notification to the custodian of his or her intent to seek a court order restraining the authority from providing access to the requested record.
  5. Within 10 days after receipt of a notice under Par. 1., a record subject may commence an action seeking a court order to restrain the authority from providing access to the requested record. If a record subject commences such an action, the record subject shall name the authority as a defendant. Notwithstanding s. 803.09, Wis. Stats., the requester may intervene in the action as a matter of right, pursuant to s.19.356(4), Wis. Stats. If the requester does not



intervene in the action, the custodian shall notify the requester of the results of the proceedings under this subsection and Par. 6.

6. A custodian shall not provide access to a requested record within 12 days of sending a notice pertaining to that record under Par. 1. In addition, if the record subject commences an action under Par. 5 the custodian shall not provide access to the requested record during pendency of the action. If the record subject appeals or petitions for review of a decision of the court or the time for appeal or petition for review of a decision adverse to the record subject has not expired, the custodian shall not provide access to the requested record until any appeal is decided, until the period for appealing or petitioning for review expires, until a petition for review is denied, or until the custodian receives written notice from the record subject that an appeal or petition for review will not be filed, whichever occurs first.

- (b) 1. Except as otherwise authorized or required by statute, if a custodian authority decides under this ordinance to permit access to a record containing information relating to a record subject who is an officer or employee of the custodian holding a local public office, the authority shall, before permitting access and within 3 days after making the decision to permit access, serve written notice of that decision on the record subject, either by certified mail or by personally serving the notice on the record subject. The notice shall briefly describe the requested record and include a description of the rights of the record subject under Par. 2.
- 2. Within 5 days after receipt of a notice under Par. 1, a record subject may augment the record to be released with written comments and documentation selected by the record subject. Except as otherwise authorized or required by statute, the custodian under Par. 1 shall release the record as augmented by the record subject.

(15) Limitations On Access To Public Employee And Local Public Official Personnel Records.

- (a) Unless access is specifically authorized or required by statute, a custodian shall not provide access under this ordinance to records containing the following information, except to an employee or the employee's representative to the extent required under s. 103.13, Wis. Stats. or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain under ch. 111, Wis. Stats., or pursuant to a collective bargaining agreement under ch. 111, Wis. Stats.:
  - 1. Information maintained, prepared, or provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an employee, unless the employee authorizes the authority to provide access to such information.
  - 2. Information relating to the current investigation of a possible criminal offense or possible misconduct connected with employment by an employee prior to disposition of the investigation.
  - 3. Information pertaining to an employee's employment examination, except an examination score if access to that score is not otherwise prohibited.
  - 4. Information relating to one or more specific employees that is used by an authority or by the employer of the employees for staff management planning, including performance evaluations, judgments, or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference, or other comments or ratings relating to employees.

(b) Records Of An Individual Holding A Local Public Office Or A State Public Office.

Unless access is specifically authorized or required by statute, a custodian shall not provide access under this ordinance to records, except to an individual to the extent required under s.103.13, Wis. Stats., containing information maintained, prepared, or

provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an individual who holds a local public office, unless the individual authorizes the custodian to provide access to such information. This subsection does not apply to the home address of an individual who holds an elective public office or to the home address of an individual who, as a condition of employment, is required to reside in a specified location.

(16) Contractor And Prevailing Wage Employee Records

(a) Contractors' Records. Subject to Sub. (b), each custodian shall make available for inspection and copying under this ordinance any record produced or collected under a contract entered into by the custodian with a person other than a custodian to the same extent as if the record were maintained by the custodian. This subsection does not apply to the inspection or copying of a record under s. 3.70(5)(a)(2), M.G.O.

(b) Prevailing Wage Employee Records.

Unless access is specifically authorized or required by statute, a custodian shall not provide access to a record prepared or provided by an employer performing work on a project to which s. 66.0903, 103.49, or 103.50, Wis. Stats., applies, or on which the employer is otherwise required to pay prevailing wages, if that record contains the name or other personally identifiable information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information. In this subsection, "personally identifiable information" does not include an employee's work classification, hours of work, or wage or benefit payments received for work on such a project.

(17) Financial Records. City officers are hereby empowered to destroy the following public records pursuant to Section 19.21(4), Wisconsin Statutes; provided, however, that all public records shall be retained for at least seven (7) years, unless the State of Wisconsin Public Records Board approves a shorter period. Prior to any destruction of public records, the State Historical Society shall be notified according to the provisions of Wis. Stat. 19.21(4)(a).

- (a) Bank statements, deposit books, slips and stubs.
- (b) Bonds and coupons after maturity.
- (c) Canceled checks, duplicates and check stubs.
- (d) License and permit applications, stubs and duplicates.
- (e) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
- (f) Receipt forms.
- (g) Special assessment records.
- (h) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (i) Welfare accounting records--10 years.
- (j) Welfare account reports--10 years.
- (k) Agency fiscal records and reports duplicated in Accounting and Purchasing files--3 years.
- (l) Agency files used for preparation and monitoring of budgets and grants--7 years.

(18) Other Records. City officers are hereby empowered to destroy the following records pursuant to the provisions of Section 19.21(4), Wisconsin Statutes; provided, however, that all of the requirements of Subsection (7) above are complied with.

- (a) Assessment rolls and related records, including Board of Review minutes.
- (b) Contracts and papers relating thereto.
- (c) Correspondence and communications.
- (d) Financial reports other than annual financial reports.
- (e) Insurance policies.
- (f) Justice dockets.
- (g) Oaths of office.
- (h) Reports of boards, commissions, committees and officials duplicated in the Common

- Council proceedings.
  - (i) Election notices and proofs of publication.
  - (j) Voter record cards.
  - (k) Official bonds.
  - (l) Police records other than investigative records.
  - (m) Fire Prevention Division Inspection Reports, Violation Notices and related documents.
  - (n) City Attorney building code violation files and traffic ordinance violation files.
  - (o) Birth, death and marriage certificates 1909-1966.
  - (p) Index to birth, death and marriage certificates 1909-1983.
  - (q) CETA participant records covering the period beginning October 1976 and ending September 1980.
  - (r) Building construction and mechanical plans - 3 years.
  - (s) Administrative management records--2 years.
  - (t) Social services planning and mission files--10 years.
  - (u) Public Health client case history files (except immunization records) --15 years.
  - (v) Filled jobs files--10 years.
  - (w) Unsuccessful applicant files--2 years.
  - (x) Employee history files - permanent employees--15 years.
  - (y) Employee history files - temporary employees--7 years.
  - (z) Employee history files - agency copy--12 months.
  - (aa) Employee certifications--15 years.
  - (bb) Job announcements - historical files--7 years.
  - (cc) Job announcements - convenience copy--destroy after application period is closed.
  - (dd) Committee minutes--15 years - transfer to state historical society.
  - (ee) EOC case files--15 years - offer to state historical society.
  - (ff) Obsolete Personnel Action Forms.
- (19) Electronic Recording Tapes. City employees who are the custodians of the following public records in the form of electronic recording tapes are hereby empowered to erase, destroy and/or reuse said electronic recording tapes after having retained said recordings for respective time periods set forth below and after having given sixty (60) days written notice to the State Historical Society as provided in Wis. Stats. Sec. 19.21(5), unless the State Historical Society has in writing waived the giving of such notice.
- (a) Stenographic recordings or other tape recordings made or used in connection with office dictation equipment or made or used to record hearings or meetings for stenographic purposes and to assist in the preparation of minutes of said hearings or meetings, but not for record purposes, may be destroyed, erased or reused after the correspondence, minutes or record of the hearing or meeting, or other written documents have been prepared in written form from said recording.
  - (b) Madison Police Department and Madison Fire Department, mobile video/audio tapes may be destroyed, erased or reused after having been retained for one hundred twenty (120) days from the date of the original video/audio recording.
  - (c) Repealed.
  - (d) Madison Cable Television office video tapes and all other video tapes prepared by the employees of the City of Madison may be destroyed, erased or reused after having been retained for fourteen (14) days, except for portions of video tapes that are destroyed, erased or reused while editing associated with the production of cable television programming and seminar programming which may be done immediately.
  - (e) Tape recordings of meetings or hearings made for record purposes may be destroyed, erased, or reused as follows:
    - 1. Where those tapes are reduced to writing verbatim:  
One (1) month after the material on the tape has been recorded in written form.
    - 2. Where those tapes are not reduced to writing verbatim but where minutes of the hearing or meeting have been reduced to writing:

One (1) year after the written minutes of the meeting or hearing have been recorded in written form.

3. Where those tapes are not reduced to writing verbatim and where written minutes of the hearing or meeting have not been recorded in writing or where tape recordings of the Board of Review meetings are made in accordance with the provisions of Section 70.47(8) of the Wisconsin Statutes:

Seven (7) years after recording and after said tapes are first offered to the State Historical Society for review.

- (20) Microfilm, Optical Imaging, Electronic Formatting or Other Reproduction of Records. Any City officer, or the director of any department or division of City government may, with the approval of the Mayor, and after consulting with the Director of Information Technology, keep and preserve public records in his/her possession by means of microfilm, or another reproduction method, optical imaging or electronic formatting. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats. (2001-2002 Wis. Admin. Code § PR 1 (current through Wis. Admin. Reg. No. 467, Nov. 1994) and Wis. Admin. Code § Adm. 12 (current through Wis. Admin. Reg. 554, Feb. 2002). Such records shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Subsections (1) through (3) of this ordinance. The original hardcopy of any document or record which has been converted to and which is also maintained as a microfilm, optical imaging, electronic formatting or other reproduction in accordance with this section may be destroyed in compliance with Subsection (7) of this ordinance.