

CHAPTER 3 RECORDS

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CHAPTER 3 RECORDS

SECTION 3.01 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- (a) **Authority.** Any of the following Village entities having custody of a Village record: an office, elected official, agency, board, commission, committee, council, department, or public body corporate and politic created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the foregoing.
- (b) **Custodian.** That person designated under Section 3.03 or otherwise responsible by law to keep and preserve any Village records or file, deposit or keep such records in his or her office, or who is lawfully in possession or entitled to possession of such public records, and who is required by this chapter to respond to requests for access to such records.
- (c) **Record.** 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 an authority. "Record" includes, but is not limited to, handwritten, typed, or printed pages, maps, charts, photographs, films, recordings of any kind, 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.

SECTION 3.02 Duty to Maintain Records.

- (a) Each officer and employee of the Village shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee of his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefore to the officer or employee, who shall file said receipt with the Village Administrator/Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such

records shall be delivered to and receipted for by the Village Administrator/Clerk-Treasurer, on behalf of the successor, to be delivered to such successor upon the latter's appointment, election or approval.

SECTION 3.03 Legal Custodians.

- (a) The Village Administrator/Clerk-Treasurer is hereby designated the legal custodian of all Village records, except records of the Village Police Department.
- (b) The Chief of Police is hereby designated the legal custodian of his records and the records of the Village Police Department.
- (c) Each legal custodian shall name a person to act as legal custodian in his or her absence.
- (d) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority. The designation of a legal custodian does not affect the powers and duties of an authority under this chapter.

SECTION 3.04 Public Access to Records.

- (a) Except as provided in Section 3.06, any person has a right to inspect a record, and to make or receive a copy of any record, as provided in Chapter 19 Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) A requester shall be permitted to use facilities comparable to those available to Village employees to inspect, copy, or abstract a record.
- (d) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (e) A requester shall be charged a fee to defray the cost of locating and copying records as follows:
 - (1) The cost of photocopying shall be set by resolution of the Village Board from time to time and shall be calculated not to exceed the actual, necessary and direct cost of reproduction.
 - (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
 - (3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, and audiotapes or videotapes, shall be charged.
 - (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
 - (5) There shall be no charge for locating a record unless the actual cost therefore exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

- (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.
- (7) Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (f) Pursuant to Section 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display, and make available for inspection and copying at its offices, 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 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.

SECTION 3.05 Access Procedures.

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be 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 Section 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3.04(e)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefore.
- (c) A request for a record may be denied as provided in Section 3.06. If a request is made orally, the request may be denied 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 written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Section 19.37(1), Wis. Stats., or upon application to the Attorney General or District Attorney.

SECTION 3.06 Limitations on Right to Access.

- (a) As provided by Section 19.36, Wis. Stats., the following records are exempt from inspection under this chapter:
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
 - (5) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and
 - (4) A record or any portion of a record containing information qualifying as a common law trade secret.
- (b) As provided by Section 43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Village Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete information that may not be made public from the record before release.

SECTION 3.07 Destruction of Records.

- (a) Village officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit, but not less than seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Section 16.61(3)(e), Wis. Stats., and then after such shorter period:
 - (1) Bank statements, deposit books, slips and stubs.
 - (2) Bonds and coupons after maturity.
 - (3) Canceled checks, duplicates and check stubs.
 - (4) License and permit applications, stubs and duplicates.
 - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (6) Receipt forms.
 - (7) Special assessment records.

- (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) Village officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective, unless a shorter period has been fixed by the State Public Records Board pursuant to Section 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.
- (c) Village officers may destroy the following records of which they are the legal custodians and which are considered obsolete, but not less than seven (7) years after record was effective, unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Section 16.61(3)(e), Wis. Stats., and then after such shorter period:
 - (1) Contracts and papers relating thereto.
 - (2) Correspondence and communications.
 - (3) Financial reports other than annual financial reports.
 - (4) Oaths of office.
 - (5) Reports of boards, commissions, committees and officials duplicated in the Village Board proceedings.
 - (6) Election notices and proofs of publication.
 - (7) Canceled voter registration cards.
 - (8) Official bonds.
 - (9) Police records other than investigative records.
 - (10) Resolutions and petitions, provided that the text of the same appears in the official Village minutes.
 - (11) Excavation permits.
 - (12) Inspection records.
- (d) Notwithstanding the above provisions appearing in this section, it is intended hereby that election materials may be destroyed according to lesser time schedules as made and provided in Section 7.23, Wis. Stats.
- (e) Unless notice is waived by the Village Historical Society, at least 60 days' notice shall be given to the Village Historical Society prior to destruction of any record or document.
- (f) Any tape recordings of a governmental meeting of the Village may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

SECTION 3.08 Preservation of Records.

Any Village officer or the director of any department or division of Village government may, subject to the approval of the Village Administrator/Clerk-Treasurer, keep and preserve public records in his or her possession. Such records shall meet the standards for photographic reproduction set forth in Section 16.61(7)(a) and (b), Wis. Stats., and 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 this chapter.