

KENOSHA COUNTY

BOARD OF SUPERVISORS

ORDINANCE NO.

Subject: Amendment of MCKC Chapter 3.64 (7) – Public Records and Property	
Original <input type="checkbox"/> Corrected <input checked="" type="checkbox"/> 2nd Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted:	Date Resubmitted:
Submitted By: Supervisor Zachary Rodriguez,	
Fiscal Note Attached <input type="checkbox"/>	Legal Note Attached <input type="checkbox"/>
Prepared By: Joseph M. Cardamone III, Corp. Counsel	Signature:

THE KENOSHA COUNTY BOARD OF SUPERVISORS DOES HEREBY ORDAIN that the
Municipal Code of Kenosha County Chapter 3.64 (7), PUBLIC RECORDS AND
PROPERTY, is hereby amended as follows:

3.64 PUBLIC RECORDS AND PROPERTY

- (7) Notice and Form. Each legal custodian as defined herein, with the exception of the county board of supervisors, shall permanently display and make available for inspection and copying at its office for the guidance of the public, the following notice, each section of which shall be deemed to have been so ordained as such by the county board:

WISCONSIN PUBLIC RECORDS LAW

(Name of Department, Committee, Commission, Etc.)

1. Under Wisconsin Statutes section 19.35(1), a copy of which may be obtained from the legal custodian, members of the public have certain rights to access to public records. These rights include the right to inspect any record as defined herein, to photocopy said record or obtain a legible or audible copy of any tape or video recording and the right to photograph a record, the form of which does not permit copying. A member of the public need not identify himself or herself or state the purpose of the request in order to inspect or copy a record.
2. Exceptions. The public's right to access to public records may be limited according to law in certain circumstances where the material is deemed confidential; where the material is not classified as such as a public record in accordance with section 3.64(4)(e) of this ordinance. In addition, the public's right to access is limited pursuant to the provision of section 19.36 of the Wisconsin Statutes, a copy of which law may be obtained from the legal custodian, which permits withholding information in certain circumstances relating to the application of other laws, law enforcement records, contractor's records, computer programs and data, and trade secrets.

Substantive common law principals construing the right to inspect or copy apply, i.e., upon certain findings of fact, it may be determined that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record.

The provisions of the Wisconsin Public Records Law do not apply to a record which has been or will be promptly published with copies offered for sale or distribution. In addition, the county is not required to create a new record by means of extracting information from existing records and compiling the information in a new format.

3. This office has been designated by the Kenosha County Board of Supervisors as a county department and as such a depository for certain public records and is charged with those responsibilities set forth in section _____ of the Wisconsin Statutes including, but not limited to:

4. The undersigned legal custodian is responsible for insuring compliance with section 19.31 through 19.39 of the Wisconsin Statutes and sections 3.64 and 3.645 of the Municipal Code of Kenosha County so as to insure that the public may obtain information and access to records in his custody for purposes of inspection or copying. The legal custodian may make such reasonable rules not inconsistent with state statutes as deemed necessary to insure that records are not stolen, misplaced or damaged. The legal custodian for this office has established the following rules: (eg., specificity, public handling, use, time requirements, cost estimates, prepayment, removal, excess costs, non-payment on account, and reasonable limitations as to subject matter or length of time represented by the record):

5. The legal custodian for this office is _____; his
(position)
designee is _____; and in the event of the
absence
(position)
of either the legal custodian or his designee, the alternate legal
custodian is _____.
(position)

6. Records for this office may be obtained in the following location:

7.* Records may be obtained in this office during normal office hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise specifically authorized by law.

7.* Because this office does not maintain regular office hours at the location where records are kept, access is permitted to records upon at least 48 hours written or oral notice of intent to inspect or copy a record.

7.* Because this office does not maintain regular office hours at the location where records are kept, access to records is permitted during the following two consecutive hours on the following days:

_____.

Twenty-four hours advance written or oral notice to inspect or copy a record is required.

8. Facilities. The following facilities which are available to the employees of this department, committee or commission are available to the public to obtain information and access and to make requests for records or obtaining copies of records, inspecting such records and abstracting of records during office hours as established above. This department, committee or commission is not required to purchase or lease photocopying, duplicating, photographic, video, sound duplicating or other equipment or to provide a separate room for such inspection or copying of records.

9. Fee Schedule

The following costs and fees shall be collected by the legal custodian and are imposed to cover the copying of records:

Search. Prior to searching for or locating any record, an estimate shall be given as to the actual, necessary and direct costs involved in locating the record being requested. No charge will be made ~~for the first \$50 unless the costs~~ incurred in locating the record or records, ~~exclusive of copying,~~ being requested by an individual requester ~~exceeds \$50.~~ Any charge over \$50 will result in ~~the full amount being charged~~~~first dollar~~ liability. A search for a record shall be deemed to incur a minimum of five minutes time. The actual, necessary and direct costs for locating records is to be calculated on the basis of \$_____ per hour, said costs taking into account all related personnel costs and equipment time.

Reproduction Costs. (actual, necessary and direct costs)

<u>Personnel Cost</u>	<u>Equipment Cost</u>	<u>Material</u>	<u>Total</u>
Photocopying /	Copy Machine _____	Paper \$ _____/sheet	_____
Audio Tapes /	Recorder _____	Tape \$ _____/tape	_____
Video Tapes /	Recorder _____	Tape \$ _____/tape	_____
Microfiche /	Microfilm reader and copier _____		_____
Photograph /	Camera and _____	Film + actual developing costs _____	_____
Computer Data /	Computer Time _____	Paper \$ _____	_____
_____ /printout _____			_____

Hard copies shall be provided at a fee of \$0.10 per page. This fee is comprehensive and includes costs for materials and labor. In the event that records are provided on a flash drive, the cost for a (ENTER APPROPRIATE SIZE) is \$(ENTER APPROPRIATE AMOUNT) and the cost for a (ENTER OTHER SIZE) is \$(ENTER OTHER AMOUNT).

Certification. Certified copies of records may be obtained from the legal custodian at the cost of \$_____ per certificate unless such other cost is specified by law.

Mailing and Shipping. Mailing or shipping costs shall be assessed to the requester at the rate of the actual, necessary and direct costs involved in mailing or shipping a copy or photograph.

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Prepayment. All mailing and shipping costs and search or reproduction fee in excess of \$5.00 shall be paid in advance to the legal custodian and properly accounted for by said custodian.

An itemized statement shall be presented to the requester of the actual, necessary and direct costs as authorized by State Law and Kenosha County Ordinance.

The County Board has authorized that the legal custodian, in his or her discretion, may deem, with the approval of the county board, that certain records be distributed free of charge to the general public and is permitted to waive any fees which would otherwise be appropriately charged. Pursuant to Wisconsin Statutes section 59.71(1), the books, records, papers and accounts of the county board shall be deposited with the county clerk and shall be open without any charge to the examination of all persons. Pursuant to section 19.25 of the Wisconsin Statutes, no fee shall be charged to the specifically listed state officers requiring a search or copy of any county record.

10. Denials and Appeals. In the event that you are denied access to records, in whole or in part, you are entitled to know the reason for the denial. If a request is made orally, the decision to deny access may be made orally unless a demand for the written statement of the reasons for the denial is made within five business days of the oral denial.

If the custodian denies a written request in whole or in part, he shall receive from the custodian a written statement of the reasons for denying the request. Every written denial of a request by a custodian shall inform the person making the request that if the request for the record was made in writing, then the denial is subject to review upon a petition for a writ of mandamus under section 19.37(1) of the Wisconsin Statutes or upon application to the attorney general or district attorney.

You may appeal the decision of the legal custodian to deny records pursuant to the provisions of this municipal code relating to administrative appeals. In the alternative, you may seek advice from the attorney general as to the applicability of the Wisconsin Public Records Law under any circumstance. The attorney general may be contacted by writing to: State Capitol, Madison, Wisconsin 53702. In addition, you may furthermore, in the event of a delay in obtaining records or in the event of denial of access to records after a written request for disclosure is made, have the following remedies for purposes of reviewing the action of the legal custodian and obtaining compliance:

- (a) The requester may bring an action for mandamus asking a court to order release of the record. The court may permit the parties or their attorneys to have access to the requested record under restrictions or protective orders as the court deems appropriate, and/or

- (b) The requester may, in writing, request the district attorney of the county where the record is found, or request the attorney general, to bring an action for mandamus asking a court to order release of the record to the requester. The district attorney or attorney general may bring such an action.

Costs, fees and damages may be awarded in accordance with Wisconsin Statutes sections 19.37(2), (3) and (4).

11. Stolen, Concealed, Misplaced, Damages or Altered Records. In the event that any record inspected or copied, is taken without permission, intentionally concealed, damaged, or improperly altered by a member of the public, he or she may be guilty of a Class C Felony pursuant to section 943.38(1) or a Class D Felony pursuant to Wisconsin Statutes section 946.72(1). In the event that a member of the public negligently misplaces or damages such record, he may be held liable for all consequent damages including costs of replacement.

Legal Custodian

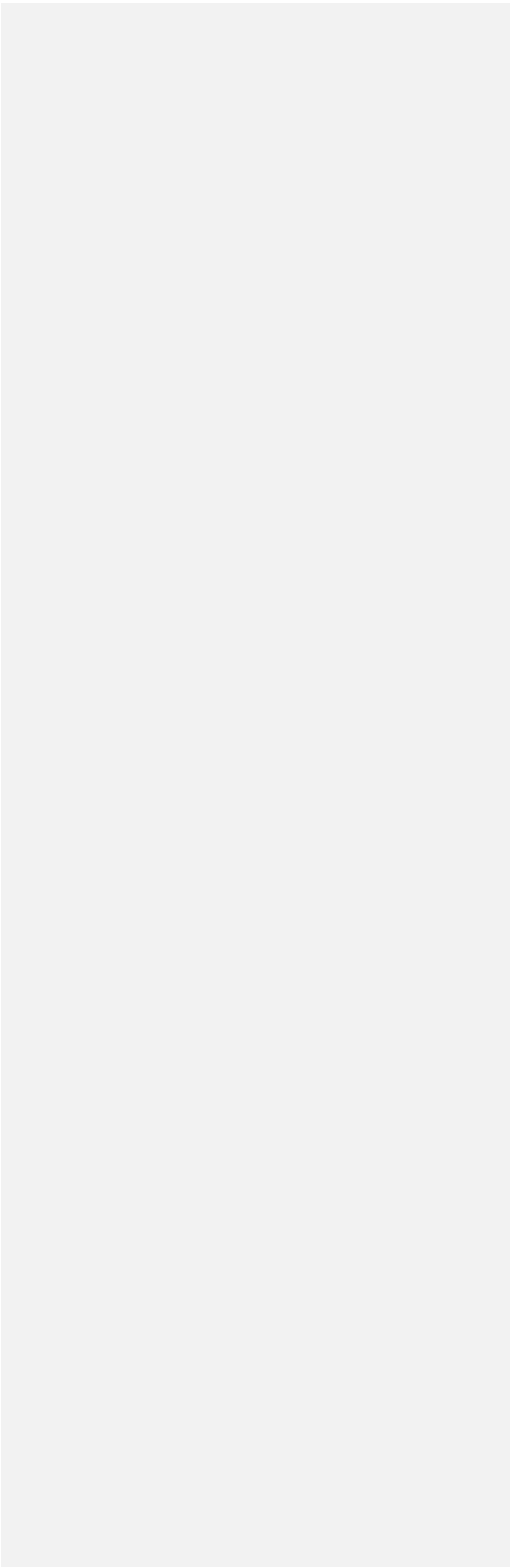
Designee

Alternate Legal Custodian

7* -- strike two

Respectfully Submitted,

Zach Rodriguez



Approved by:

Finance/Administration Committee

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	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Excused</u>
<div></div> <div>Terry Rose, Chair</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<div></div> <div>Ronald Frederick, Vice-Chair</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<div></div> <div>John O'Day</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<div></div> <div>Michael Goebel</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<div></div> <div>Jeff Wamboldt</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<div></div> <div>Jeffrey Gentz</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<div></div> <div>Edward Kubicki</div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>