

**CHAPTER 1**

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## **ARTICLE I. PROVISIONS APPLICABLE TO ENTIRE OSHKOSH CODE**

### **SECTION 1-1 DESIGNATION AND CITATION OF CODE**

This Code may at all times be referred to as the "Municipal Code of the City of Oshkosh" or "Oshkosh Municipal Code" and whenever cited hereafter in connection with any of the provisions that follow may be referred to as "this Code". It shall be sufficient to designate any ordinance adding to, amending or repealing this Code as an addition or amendment to, or repeal of, the "Municipal Code of the City of Oshkosh" or "Oshkosh Municipal Code". Also, in any prosecution for the violation of any provision of this Code, it shall be sufficient to designate this Code as the "Municipal Code of the City of Oshkosh" or "Oshkosh Municipal Code."

### **SECTION 1-2 EFFECT ON PAST ACTIONS AND OBLIGATIONS**

Neither the adoption of this Code nor the repeal hereby of any ordinance of this City shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at said effective date due and unpaid under such ordinance, not be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, not to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.

### **SECTION 1-3 CONTINUITY OF PREVIOUS PROVISIONS**

The provisions of this Code, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments

### **SECTION 1-4 VALIDITY AND SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code or any part thereof should be declared invalid or unconstitutional, then the original ordinance or ordinances which said Code or part thereof supersedes shall be in full force and effect.

### **SECTION 1-4.1 AUTHORIZE TRAFFIC OFFICERS**

For purposes of directing vehicular and pedestrian traffic on public or private property or in the right of way areas of the City of Oshkosh, duly appointed Community Service Officers and Auxiliary Police Officers are hereby designated as "Traffic Officers" within the meaning of Sections 340.01(70) and 346.04 of the Wisconsin Statutes and are hereby authorized to direct and control vehicular and pedestrian traffic as assigned through the Oshkosh Police Department.

**SECTION 1-5 GENERAL PENALTY PROVISION FOR ORDINANCE VIOLATION**

Whenever, in any section of this Code or any section of a rule or regulation promulgated hereunder, the doing of any act is required, prohibited, or declared to be unlawful and no definite fine or penalty is provided for a violation, thereof, any person, who shall be convicted of a violation of any such section shall, for each offense, be fined in a sum not more than Five Hundred Dollars (\$500.00), together with the costs of prosecution, and in default in payment thereof, shall be imprisoned in the county jail until such fine and costs are paid, not to exceed ninety (90) days. The suspension or revocation of any license or certificate, or other privilege conferred by the City, shall not be regarded as a penalty for the purpose of this Code.

**SECTION 1-5.1 BOND SCHEDULE ORDINANCE VIOLATIONS; STIPULATION OF GUILT; EXCEPTIONS**

(A) A person to whom a Summons or Order of the Police Department or of any department of the City of Oshkosh has been issued to appear in court for violation of any ordinance of the City of Oshkosh may appear at the Oshkosh Police Department seventy-two (72) hours prior to the time established for appearance in court and enter a plea of "no contest" to such charges and, unless specifically enumerated herein, forfeit the sum of Fifty Dollars (\$75.00) plus the penalty assessment and court costs set by Sections 165.87 and 814.63 of the Wisconsin Statutes for the first offense within a year. For a second and subsequent offense of the same ordinance within a one-year period, the forfeiture shall be \$150.00, plus penalty assessment and court costs.

Persons stipulating to the charges shall forfeit the sum specifically enumerated within the Oshkosh City Ordinance Bond Schedule on file in the Office of the City Clerk plus the penalty assessment and Court costs set by Sections 165.87 and 814.63 of the Wisconsin Statutes, as allowed by statute.

(B) When a person charged with such violation signs a Stipulation of Guilt and/or enters a plea of "no contest" and pays the fine and cost as set out in subsection (A) herein, such person need not appear in court and no witness fees shall be taxed.

**SECTION 1-5.2 ORDINANCE VIOLATIONS; STIPULATION OF GUILT; EXCEPTIONS--ALL PERTAINING TO JUVENILES**

Any person who is of the age of 12 to 16 to whom a summons or citation of the Police Department or of any department of the City of Oshkosh has been issued to appear in court for violation of any ordinance of the City of Oshkosh may appear at the Oshkosh Police Department seventy-two (72) hours prior to the time established for appearance in court and enter a plea of "no contest" to such charge and forfeit the stipulated amount as set forth elsewhere in this Code.

**SECTION 1-5.3 ISSUANCE OF CITATIONS FOR VIOLATIONS OF ORDINANCES**

(1) Pursuant to Section 66.119 of the Wisconsin Statutes, the City of Oshkosh hereby elects to use the citation method of enforcement of ordinances including those ordinances for which a statutory counterpart exists.

## (2) THE CITATION.

- (a) The citation shall contain the following:
1. The name and address of the alleged violator.
  2. The factual allegations describing the alleged violation.
  3. The time and place of the offense.
  4. The section of the ordinance violated.
  5. A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
  6. The time at which the alleged violator may appear in court.
  7. A statement which in essence informs the alleged violator:
    - a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.
    - b. That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.
    - c. That if the alleged violator makes a cash deposit and does not appear in court, either he or she will be deemed to have deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under sub-section 7 and shall send the signed statement with the cash deposit.
  8. Such other information as may be deemed necessary.

## (3) SCHEDULE OF DEPOSITS.

- (a) The following schedule of cash deposits is established for use with citations issued under this ordinance. For violations of Chapter 7 of the Oshkosh Municipal Code (Building Code), Chapter 11 of the Oshkosh Municipal Code (Electrical Code), Chapter 14 of the Oshkosh Municipal Code (Food and Food Establishments), Chapter 15 of the Oshkosh Municipal Code (Health), Chapter 16 of the Oshkosh Municipal Code (Housing), Chapter 20 of the Oshkosh Municipal Code (Plumbing), Chapter 29 of the Oshkosh Municipal Code (Weights and Measures) - \$75.00 plus 15% penalty provisions plus costs. All other citations issued under this ordinance shall carry a cash deposit as prescribed in Section 1-5.1 of the Oshkosh Municipal Code.
- (b) Deposits shall be made in cash, money order or certified check to the Treasurer of Clerk of Circuit Court, or other official designated by the City, who shall provide a receipt therefor.

- (4) ISSUANCE OF CITATION. Law Enforcement Officer. Any law enforcement officer may issue citations authorized by this municipal code. In addition, the following are hereby designated as City officials who may issue citations with respect to ordinances directly related to their official responsibilities: Fire Chief, Fire Inspector, Building Inspector, Electrical Inspector, Weights and Measures Inspector, Plumbing Inspector and Plumbing Supervisor, Housing Inspector, Director of Health, Health Sanitarians, Sanitation Superintendent, Director of Community Development and Director of Public Works/City Engineer. In addition, the above mentioned individuals may delegate, with the approval of the City Manager, the authority to their assistants or other designee.

In addition, Community Service Officers of the Oshkosh Police Department may issue citations to enforce Chapter 6, Chapter 23, Section 25-30, Section 25-30.1, Section 25-31, Chapter 27 Articles III-VII, and Sections 27-57 through 27-64 inclusive of this code.

In addition, employees of the Oshkosh Police Department appointed by the Common Council as Humane Officers may issue citations to enforce Chapter 6 of this municipal code.

In addition, employees of the City of Oshkosh Parks Department may issue parking tickets and/or citations to enforce Sections 19-7.1 pertaining to boat launch areas and on-land boat storage stalls in Menominee Park and 27-32 of this municipal code pertaining to parking spaces reserved for vehicles displaying special registration plates or special identification cards, in particular, all handi-capped parking areas within all boat launch areas.

- (5) **PROCEDURE.** Section 66.119(3) of the Wisconsin Statutes, relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.
- (6) **NONEXCLUSIVITY.**
- (a) **Other Ordinance.** Adoption of this ordinance does not preclude the Council from adopting any other ordinance or providing for the enforcement of any other law ordinance relating to the same or other matters.
- (b) **Other remedies.** The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.
- (7) **SEVERABILITY.** If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

#### **SECTION 1-5.4 IMPLEMENT PENALTY PROVISION FOR LAW ENFORCEMENT TRAINING FUND**

All the provisions of Chapters 165.87, 59.20(5)(B), and 59.395(5) of the Wisconsin Statutes describing and defining the provisions of a Penalty Assessment to be added on to Municipal Ordinance Penalties are hereby adopted and by reference made a part of this ordinance as if fully set forth herein.

#### **SECTION 1-6 JUDGMENT TO INCLUDE COSTS AND SENTENCE**

Whenever a forfeiture is imposed as punishment for any offense, or when a penalty or forfeiture is recovered for violation of any of the provisions of this code, the judgment shall include the penalty assessment provided by Sec. 165.87 of the Wisconsin Statutes and Court costs as set by Section 814.63 of the Wisconsin Statutes, which are hereby adopted and incorporated herein by reference and shall provide for imprisonment in the County Jail for the designated period for default in the payment of such forfeiture, penalty and costs. All judgments shall be thus rendered, whether the provisions under which a prosecution or proceeding is had shall specifically so direct or not.

#### **SECTION 1-7 CONFLICTING PROVISIONS**

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail to all matters and questions arising out of the subject matter of such chapter.

#### **SECTION 1-8 SAME OFFENSE PUNISHABLE BY DIFFERENT SECTIONS OF CODE**

In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the City Attorney may elect under which to proceed; but not more than one recovery shall be had

against the same person for the same offense.

#### **SECTION 1-8.1 PARTIES TO ORDINANCE VIOLATIONS**

- (A) Whoever is concerned in the violation of an ordinance is a principal and may be charged with and convicted of violating the ordinance although he did not directly violate it and although the person who directly violated it has not been convicted or has been convicted of some other ordinance violation based on the same act.
- (B) A person is concerned in the violation of an ordinance if he:
- (1) Directly violates the ordinance; or
  - (2) Intentionally aids and abets the violation of it; or
  - (3) Is a party to a conspiracy with another to violate it or advises, hires, counsels or otherwise procures another to violate it. Such a party is also concerned in the violation of any other ordinance which is committed in pursuance of the intended violation and which under the circumstances is a natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the ordinance be violated and notifies the other parties concerned of his withdrawal within a reasonable time before the violation of the ordinance so as to allow the others also to withdraw.

#### **SECTION 1-9 CERTIFIED COPY OF ORDINANCE ADMISSIBLE INTO EVIDENCE**

Any printed copy of this revised Municipal Code or any printed supplement thereto, containing a printed certificate of the City Clerk as to correctness, shall be received in evidence in any court for the purpose of proving any charter and ordinances therein contained with like effect and for the same purpose as the original ordinances, minutes or journals would be received.

#### **SECTION 1-10 PUBLICATION OF ORDINANCES**

No ordinance shall be effective until it has been published. Publication of the ordinance shall be either in its entirety or as a notice as provided in Section 62.11(4) of the Wisconsin Statutes.

#### **SECTION 1-11 PRESERVATION OF ORDINANCES**

Except as otherwise directed by the Common Council, the City Clerk may publish ordinances in either of the methods set forth in Section 1-10. One copy as published shall be deposited and thereafter kept in the office of the City Clerk, who shall annex thereto a certificate under his hand and seal of said City that the ordinances therein contained are the ordinances of the City, and such copy shall be preserved as an authentic record of such ordinances.

#### **SECTION 1-12 MAINTENANCE OF CODE**

Whenever the Council adopts an amendment or addition to this Code, or repeals any of its provisions, or whenever the Charter is amended, or whenever the City Attorney amends the table of contents or index, the City Clerk shall cause the loose-leaf pages of this Code or printed matter in which changes have been made to be reprinted as required by the City Attorney, showing the changes and a notation as to the ordinance, if any, by which such changes are adopted. The City Clerk shall cause copies of each and every such reprint to be distributed to each distributee and to every purchaser of this Code who has ordered and paid for maintenance service.

**ARTICLE II. DEFINITION AND INTERPRETATION****SECTION 1-13 DEFINITIONS**

The following words and phrases, whenever used in this Code, shall be construed as defined in this Section unless from the context a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

- (A) "Business" includes businesses, professions, trades and occupations, and all and every kind of calling.
- (B) "City" shall mean the City of Oshkosh or the area within the territorial City limits of the City and such territory outside of this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.
- (C) "Council" shall mean the City Council of this City.
- (D) "County" is the County of Winnebago.
- (E) "Engage in" includes commence, engage in, carry on, conduct, maintain, manage and operate.
- (F) "Goods" includes wares or merchandise.
- (G) "License Fee" shall include any charge imposed for a license, whether the object be regulation or revenue, or both regulation and revenue but when applied to any business, profession, occupation, trade, or calling regulated by the State as a matter of statewide concern the object shall be revenue only.
- (H) "May" is permissive.
- (I) "Oath" includes affirmation.
- (J) "Office" The use of the title of any officer, employee or office shall mean such officer, employee or office of the City of Oshkosh unless otherwise specifically designated.
- (K) "Operate" includes carry on, keep, conduct, maintain or manage.
- (L) "Owner" applied to a building or land, shall include any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or a part of such building or land.
- (M) "Person". The word "person" shall include a firm, corporation, association, or other organization acting as a group or unit as well as an individual. It shall also include an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever the word "person" is used in any section of this revised Municipal code prescribing a penalty or fine, as to firms, associations and other organizations, the words shall include the partners, members or agents thereof who are responsible for any violation of the section, and as to corporations, shall include the officers, agents, or members thereof who are responsible for any violation of the section.
- (N) "Sale" includes any sale, exchange, barter or offer for sale.
- (O) "Shall" and "Must". Each is mandatory.

- (P) "State" is the State of Wisconsin.
- (Q) "Street" shall include all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.
- (R) "Tenant" or "Occupant" applied to a building or land shall include any person who occupies the whole or part of such building or land, whether alone or with others.
- (S) "Vote, approval or consent." Except as may be otherwise provided in connection therewith, the phrase "vote, approval or consent of the Council or other body" shall mean the affirmative vote of a majority of those members present at a meeting having a quorum in attendance. Whenever said phrase refers to the members of the Council or other body rather than to the Council or body as such, the vote required shall be in relation to the total membership rather than to those present at the meeting.

**SECTION 1-14 GRAMMATICAL INTERPRETATION**

- (A) "Genders." Any gender includes the other genders.
- (B) "Singular and Plural". The singular number includes the plural, and the plural, the singular.
- (C) "Tenses". Words used in the present tense include the past and the future tenses and vice versa.
- (D) "Uses of Words and Phases". Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language.

**SECTION 1-15 INTERPRETATION OF SECTION NUMBERS**

In reading a section number from left to right, the digit or digits to the left of the dash designate the chapter number of this Code. The digits to the right of the dash shall indicate the section number in such chapter. Figures to the right of a decimal point shall indicate new sections or chapters, as the case may be. The decimal system shall be used in maintaining the numerical order of such sections and chapters.

**ARTICLE III. RULES OF CONSTRUCTION**

**SECTION 1-16 HEADINGS AND CATCHLINES**

The headings of chapters, articles, divisions and sections contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent or the provisions of any chapter, article, division or section hereof.

**SECTION 1-17 TERRITORIAL APPLICABILITY**

This Code shall refer only to the omission or commission of acts within such ordinance or provision as now or hereafter amended. Reference to any section of this Code shall be understood to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

**SECTION 1-18 REFERENCE TO ORDINANCES AND CHARTER**

Any reference to an ordinance or charter in this Code shall mean such ordinance or charter of the City of Oshkosh.

**SECTION 1-19 REFERENCE TO STATUTES**

The terms "Wisconsin Statutes", and "Statutes," whenever used in this Code shall mean the Wisconsin Statutes of 1987-88, as amended, created or otherwise affected by the enactments of future legislatures in regular or special session. The terms "Wisconsin Administrative Code", "Administrative Code" and "State Administrative Code" whenever used in this Code shall mean the rules and regulations published in the volumes entitle "Wisconsin Administrative Code". It is the intention of this ordinance to include within such references all statutes and administrative rules in effect at the time of adoption of this ordinance or future amendment thereto, all prior revisions, recodification, renumbering and amendments where appropriate and all future revisions, recodification, renumbering and amendments unless otherwise expressly provided in such references. It is the intention of this ordinance that any act required to be performed or prohibited by statute or administrative rule, as previously amended, presently in effect or as may be amended in the future, incorporated within this Code by reference is required or prohibited by this Code.

**SECTION 1-20 REFERENCE INCLUDES AMENDMENTS**

Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as now or hereafter amended. Reference to any section of this Code shall be understood to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

**SECTION 1-21 PROHIBITED ACTS; INCLUDING CAUSING, PERMITTING**

Whenever in this Code any act or omission is made unlawful it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

**SECTION 1-22 NOTICES; SERVICE AND PROOF**

Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office, or any United States mailbox. Proof of giving any notice may be made by the certificate of any officer or employee of this City or by affidavit or any person over the age of eighteen years, which shows service in conformity with this Code or other provisions of law applicable to the subject matter concerned.

**ARTICLE IV. PRESERVATION OF PUBLIC RECORDS****SECTION 1-23 PUBLIC RECORDS.****(1) Definitions.**

(a) "*Authority*" means any of the following City entities having custody of a City record: an office, City

official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, resolution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

- (b) "*Custodian*" means that officer, department head, division head, or employee of the City designated under sub. (3) or other responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.
- (c) "*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 an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "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 public library.

(2) Duty to Maintain Records.

- (a) Except as provided under sub.(7), each officer and employee of the City 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 or his or her deputies, or to the possession and 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 successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(3) Legal Custodian(s).

- (a) Each City official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.
- (b) Unless otherwise prohibited by law, the City Clerk or the Clerk's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council.
- (c) For every authority not specified in subs. (a) or (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.
- (e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an

authority under sub. ch. 11 of ch. 19, Stats., and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

(4) Public Access to Records.

- (a) Except as provided in sub. (6), any person has a right to inspect a record and to make or receive a copy of any record as provided in Sec. 19.35(1), Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
- (e) 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.
- (f) 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 \$.10 per page. Said cost has been 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 audio or video-tapes, 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 therefor 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 City of Oshkosh shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
  - 8. The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Sec. 19.34, 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.

(5) 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 Sec. 19.37, 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 Sub. (4)(f)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 therefor. If the legal custodian after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in sub. (6). If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons 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 Sec. 19.37(1), Stats., or upon applications to the attorney general or a district attorney.

(6) Limitations on Right to Access.

- (a) As provided by Sec. 19.36, Stats., the following records are exempt from inspection under this section:
  - 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;
  - 3. Computer programs, although the material used as input for a computer program or the material produced 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 Sec. 43.30, 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 City 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. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
  - 1. Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
  - 2. Records of current deliberations after a quasi-judicial hearing.
  - 3. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, 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.

4. Records concerning current strategy for crime detection or prevention.
  5. Records of current deliberations or negotiations on the purchase of city property, investing of city funds, or other city business whenever competitive or bargaining reasons require nondisclosure.
  6. Financial, medical, social or personal histories or disciplinary data of specific persons 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.
  7. 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 current 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 Sec. 905.03, Stats.
- (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 the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If in the judgment of the custodian and the City Attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(7) Destruction of Records.

- (a) City 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 by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, 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 Sec. 16.61(3)(e), 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. Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
  8. Special Assessment records.
- (b) City 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 by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to state public service commission regulations, but not less than seven years after the record was effective unless a shorter period has been fixed by the state public records board pursuant to Sec. 16.61(3)(e), Stats., and then after such a shorter period, except that water stubs, receipts of current billings and

customers' ledgers may be destroyed after two years:

1. Water and sewer stubs and receipts of current billings.
2. Customer's ledgers.
3. Vouchers and supporting documents pertaining to charges not included in plant accounts.
4. Other utility records with the written approval of the Commission.

(c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the 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 Sec. 16.61(3)(e), Stats., and then after such shorter period:

1. Assessment rolls and related records, including board of review minutes.
2. Contracts and papers relating thereto.
3. Correspondence and communications.
4. Financial reports other than annual financial reports.
5. Insurance policies.
6. Justice Dockets.
7. Oaths of office.
8. Reports of boards, commissions, committees and officials duplicated in the official council minutes.
9. Resolutions and petitions.
10. Voter record cards.

(d) Unless notice is waived by the State Historical Society, at least 60 days notice shall be given the State Historical Society prior to the destruction of any record as provided by Sec. 19.21(4)(a), Stats.

(e) Any tape recordings of a governmental meeting of the City 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.

(8) Preservation Through Microfilm

Any City officer, or the director of any department or division of City government may keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), 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 subs. (4) through (6) of this ordinance.

(9) Severability.

The provisions of this ordinance are severable. If a section, subsection, paragraph, sentence, clause or phrase shall be adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance.

SECTION 1-24        RESERVED.  
SECTION 1-25        RESERVED.  
SECTION 1-26        RESERVED.  
SECTION 1-27        RESERVED.