

SUBJECT: RECORDS MANAGEMENT PROGRAM

Objectives: This Administrative Procedure Memorandum establishes a system for the effective organization, maintenance and disposal of City records. Madison General Ordinance 3.70 sets forth the official policy regarding City Public Records.

Duties of Director of Information Technology

Pursuant to §3.70(8)(b), M.G.O., the Director of Information Technology shall develop and administer the City's records retention schedule for public records. The IT Director shall assist Records Custodians, store and maintain public records in accordance with that schedule.

The Director of Information Technology shall also approve the use of new and emerging communications and records technologies in accordance with secs. 3.70(3)(b)9., M.G.O. and provide technical assistance in transferring records to electronic databases, see sec. 3.70(9), M.G.O.

Department and Division Records Custodians

Each Department and Division Head is responsible for their agency's compliance with the Wisconsin Public Record Laws¹, the City's Public Records Ordinance², and this policy. Each agency shall designate one or more Records Custodians and so inform, in writing, the City Attorney and the Director of Information Technology. The duties of the Records Custodians are set forth in sec. 3.70(2), M.G.O.

Email Records

Email messages are records like any other written or otherwise recorded communication record—they are records made, received or kept by any City worker in connection with public business.

Email messages are subject to the open records law. They enjoy the same presumption of openness as other records and may be withheld only pursuant to a specific exception under the law or for a public policy reason which, after applying the balancing test, warrants non-disclosure. They are filed and stored in such a way that they can be located, accessed and provided to requesters for inspection and/or copying, as specified by law. Email is not confidential, unless access to a record is limited under the law. Therefore, the City maintains a searchable archive of every single email transaction going back 7 years. This archive can be searched by dates, agencies, senders, recipients or key words. While employees are permitted to make limited personal and incidental use of the City's email system, they should be aware that whatever they write in an email may be subject to the Public Records laws or to civil discovery. Employees should not expect any privacy in their email communications as these records are subject to inspection and review at any time; assume the content of every email may be publicly disclosed.

Whenever there is a public records request for email records, the appropriate Department/Division Head shall authorize a review of the email accounts of employees who are likely to have sent or received emails encompassed by the terms of the request. A Department/Division Head may authorize the review of any email account in their Department/Division at any time with or without cause.

The Wisconsin Supreme Court ruled that in many cases an employee's purely personal communication sent through a government operated email system DOES NOT constitute a public record.³ However, APM 3-9 states "Employees should not expect privacy with respect to information transmitted, received or stored on the City's computing resources. By accepting the grant of access to City electronic systems, the employee shall be deemed to have authorized the City to access, inspect, monitor and disclose material." The Complex interactions between the Supreme Court ruling and City policy will require that Records Custodians consult closely with the Office of the City Attorney whenever a records request may encompass an employee's personal communications.

¹ §§19.31-19.37, Wis. Stats.

² §3.70, M.G.O.

³ See *Schill v. Wisconsin Rapids School District*, 2010 WI 86.


Electronic Formatting of Records

Departments and Divisions are encouraged to designate electronic versions of records as the City's official records in accordance with the procedures set forth in §3.70(9), M.G.O. However, Department/Division Heads must consult with the Director Of Information Technology to ensure that the integrity of these records is maintained and that the City is able to migrate data to new software without loss of record integrity. Policies and procedures for the retention and disposition of electronic records are established by Information Technology.

Records Retention Schedule & Destruction of Obsolete Records

Sec. 3.70(8)(b), M.G.O., requires the publication of a retention schedule by way of this APM. Development of the City's is a dynamic process. Please see the Appendix to the APM for the most current Records Retention Schedule.

Each department and division shall bear its own costs for the storage of its records and is responsible for the destruction of its obsolete records. However, obsolete records may not be destroyed unless they have first been offered to the Wisconsin State Historical Society in accordance with §19.21(4)(a), Wis. Stats.


Paul R. Soglin
Mayor

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January 4, 2013

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