

CHAPTER 1
GENERAL GOVERNMENT
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GENERAL PROVISIONS 1.01

GENERAL PROVISIONS

1.01 **COUNCIL-MANAGER PLAN.** The City shall operate under a council-manager form of government pursuant to Ch. 64, Wis. Stats. The City Manager shall be the chief executive officer of the City and head of the City administration and shall possess and exercise all the executive and general administration powers imposed and conferred by general law or special charter and such additional powers as are herein imposed and conferred.

1.02 **ELECTED OFFICIALS.** Elected officials of the City shall be 7 members of the Council elected from the City at large to 2 year terms.

1.03 **APPOINTED OFFICIALS.** City officials enumerated in §62.09, Wis. Stats., shall be appointed by the City Manager as provided by §64.11, Wis. Stats. The City Manager from time to time may appoint assistants or deputies to City officers and create minor administrative offices.

1.04 **OATHS AND BONDS.** Elected and appointed officials shall take and file the official oath within 5 days after notice of their election or appointment as provided in §62.09(4), Wis. Stats., and shall execute and file the official bond if required by State Statutes and this Code.

1.05 **REMOVALS.** (1) **ELECTED OFFICIALS.** Elected officials may be removed as provided in §17.13(2), Wis. Stats., or by the judge of the circuit court for cause pursuant to §17.13 (3) or as provided by §17.16, Wis. Stats.

(2) **APPOINTED OFFICIALS.** Appointed officials may be removed by the City Manager pursuant to authority granted in §64.11, Wis. Stats., or as provided in §§17.13(3) and 17.16, Wis. Stats.

1.06 **VACANCIES.** (1) **HOW OCCURRING.** Vacancies in elective positions are caused as provided in §§17.03 and 17.035, Wis. Stats.

(2) **HOW FILLED.** Vacancies in elective offices shall be filled as provided in §17.23, Wis. Stats.

1.07 **SALARIES.** Salaries of elected officials of the City shall be as adopted from time to time by ordinance of the City Council.

1.08 **PERSONNEL POLICIES.** (1) The City Manager shall propose, subject to the confirmation of the City Council, personnel policies and amendments thereto which shall, under the direction of the City Manager, govern the personnel matters of the City including, but not limited to, employment and termination, compensation and benefits, affirmative action and the administration of these policies.

PERSONNEL POLICIES 1.08(2)

(2) Pay plans, excluding reclassifications, shall be brought to the City Council for confirmation.

(3) Reclassifications shall be presented separately to the City Council annually for confirmation.

(4) The personnel policies shall govern personnel matters, unless otherwise provided in a collective bargaining agreement adopted by resolution of the City Council.

1.09 **RECEIPT OF GIFTS AND GRATUITIES.** (1) RESTRICTED. No City employee or official shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he is not authorized to receive from any person who:

(a) Has or is seeking to obtain contractual or other business or financial relationships with the City or City Council.

(b) Conducts operations or activities which are regulated by the City or City Council.

(c) Has interests which may be substantially affected by the City or City Council.

(2) PENALTY. The receipt of any gift, gratuity or other thing of value as denoted above is contrary to the public policy of the City and is punishable as provided in §946.12, Wis. Stats. Such conduct shall also be punishable under §25.04 of this Code of Ordinances.

1.10 **CODE OF ETHICS.** (1) DECLARATION OF POLICY. The proper operation of democratic government requires that elected and appointed officials be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that elected office not be used for personal gain; and the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for the City elected and appointed officials as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the City. The purpose of this code is to establish guidelines for ethical standards of conduct for all such elected and appointed officials by setting forth those acts or actions that are incompatible with the best interest of the City and by directing disclosure by such officials of private financial or other interests in matters affecting the City. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the City.

(2) STANDARDS OF CONDUCT. There are certain provisions of the Wisconsin Statutes which should, while not set forth in this section, be considered an integral part of any code of ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes are made a part of this code of ethics and shall apply to elected and appointed officials whenever applicable:

CODE OF ETHICS 1.10(3)

946.10 - Bribery of Public Officers and Employees

946.11 - Special Privileges from Public Utilities

946.12 - Misconduct in Public Office

946.13 - Private Interest in Public Contract Prohibited

(3) **RESPONSIBILITY OF PUBLIC OFFICE.** Elected and appointed officials are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the U.S. Constitution and the Wisconsin Constitution and carry out impartially the laws of the nation, State and City and observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

(4) **DEDICATED SERVICE.** (a) All elected and appointed officials of the City should be loyal to the objectives expressed by the citizens and the programs developed to attain these objectives.

(b) Elected and appointed officials should not exceed their authority, breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(5) **FAIR AND EQUAL TREATMENT.** (a) Use of Public Property. No elected or appointed official shall request or permit the unauthorized use of personnel, City-owned vehicles, equipment, materials or property for personal convenience, profit or political reasons.

(b) Obligations to Citizens. No elected or appointed official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(6) **DEFINITIONS.** The following terms shall have the meanings indicated:

Anything of Value. Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment but does not include compensation and expenses paid by the State, fees, honorariums and expenses which are permitted and reported under §19.56, Wis. Stats., and political contributions which are reported under Ch. 11, Wis. Stats. Such allowable fees and contributions shall not influence good public policy.

Appointed Official. Any person not a City employee who is appointed by the City Manager or City Council to a City board, committee or commission.

CODE OF ETHICS 1.10(7)

Elected Official. Any official of the City who holds an elective office, including all candidates for such office as soon as they have filed nomination papers with the City Clerk.

Financial Interest. Any interest which yields, directly or indirectly, a monetary or other material benefit to the elected or appointed official or to any person employing or retaining services of the elected or appointed official.

Personal Interest. Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

Person. Any natural person, corporation, partnership or joint venture.

(7) CONFLICT OF INTEREST. (a) Financial and Personal Interest Prohibited. No elected or appointed official, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this section or which would tend to impair independence of judgment or action in the performance of official duties.

(b) Incompatible Employment. No elected or appointed official shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as provided below.

(c) Disclosure of Confidential Information. No elected or appointed official shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City nor shall such information be used to advance the financial or other private interest of the official or others. Information generated in closed session shall be confidential until such time as it is legally allowed or required to be made public.

(d) Gifts and Favors. 1. No elected or appointed official shall accept anything of value, whether in the form of gift, service, loan, thing or promise from any person which may tend to impair his independence of judgment or action in the performance of his duties or grant in the discharge of his duties any improper favor, service or thing of value. Any elected or appointed official who receives, directly or indirectly, any gift or gifts having an aggregate value of more than \$25 within any calendar year from any person who is known by such official to be interested directly or indirectly in any manner whatsoever in business dealings with the City upon which the official has any influence or input or over which the official has any jurisdiction, discretion or control, shall disclose the nature and value of such gifts to the Ethics Board by January 20 following the year in which the gift is received.

CODE OF ETHICS 1.10(7)(d)2.

2. No elected or appointed official may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value, if it could reasonably be expected to influence the official's actions or judgments or be considered a reward for any action or inaction on the part of the official.

3. An elected or appointed official is not to accept hospitality if after consideration of the surrounding circumstances it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest or a member of the guest's immediate family was a City official. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

4. Gifts received by an elected or appointed official under unusual circumstances should be referred to the Ethics Board within 10 days of receipt for recommended disposition.

(e) Contracts. No elected or appointed official and no business in which an elected or appointed official holds a 10% or greater interest may enter into a contract with the City involving a payment or payments of more than \$3,000 within a 12-month period unless such official has first made a written disclosure of the nature and extent of such relationship or interest to the board and department acting for the City in regard to such contracts, with the following exceptions:

1. The contract is awarded through a process of public notice and competitive bidding; or

2. The City Council waives the requirement of this section after determining that it is in the best interest of the City to do so.

3. The provisions of this section shall not apply to the designation of a public depository of public funds.

4. This subsection does not affect the application of §946.13, Wis. Stats.

(f) Disclosure of Interest in Legislation. Any member of the City Council who has a financial interest or personal interest in any proposed legislation before the City Council shall disclose on the records of the Council or the Ethics Board created by this section, the nature and extent of such interest.

(g) Campaign Contributions. Campaign contributions shall be reported by all candidates for City office in strict conformity with the provisions of Ch. 11, Wis. Stats. Any campaign contribution tendered to or accepted by a candidate subsequent to the final statutory report shall be reported to the Ethics Board.

CODE OF ETHICS 1.10(7)(h)

(h) Interference with Election Officials. No elected or appointed official or candidate for elective office shall in any manner interfere with or obstruct any local election official from performing his statutory duties and responsibilities as provided in Chs. 7, 8 and 11, Wis. Stats., unless such official is specifically authorized to perform those duties and responsibilities.

(8) ETHICS BOARD. (a) The Ethics Board shall consist of 3 members who shall serve without compensation unless the Council otherwise provides. The members of the Board shall be residents of the City and shall not be elected officials, City employees nor shall they be currently serving on any other City board or commission. Each member shall be appointed by the City Council with members to be selected as follows:

1. One member and an alternate selected from a list of proposed members gathered under the provisions of §1.30 of this chapter.

2. One member selected from a list of proposed members suggested by the Fond du Lac County Bar Association.

3. One member selected from a list of proposed members suggested by the League of Women Voters.

(b) If the Bar Association or League fail to supply a list of proposed members, the Council shall appoint a member under §1.30 of this chapter.

(c) Terms of office shall be 3 years, except that when the initial appointments are made, the member from the City shall serve one year, the member from the Bar Association shall serve 2 years, the member from the League shall serve 3 years and the alternate member shall serve 3 years. The alternate member shall be a member of the Board whenever one of the regular members is unavailable. The Board shall elect its own chairman and vice-chairman. The City Attorney's office shall provide the Board with the legal assistance necessary to carry out its function.

(9) DUTIES OF THE ETHICS BOARD. (a) The Board shall adopt and develop written rules governing its operation. A copy of such rules shall be filed with the City Clerk.

(b) An elected or appointed official covered by this code may apply to the Ethics Board for an advisory opinion and shall be guided by the opinion rendered. Such person shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the code before the advisory decision is rendered. The Board's deliberations and action upon such applications shall be in meetings not open to the public. Records of the Board's opinions, opinion requests and investigations of violations shall be closed to public inspection. The Board, however, may make such records public with the consent of the individual requesting the advisory opinion.

CODE OF ETHICS 1.10(9)(c)

(c) The Board shall investigate any complaint properly filed with it.

(d) The Board shall accept from any person a written, verified complaint stating the name of the official alleged to have committed a violation of this section and the particulars thereof. The information contained in such complaint shall be kept confidential until a finding is made by the Board under par. (f). The Board shall forward within 10 days a copy of the complaint to the elected or appointed official who is accused. If no action on the verified complaint is taken by the Board within 60 days, the complaint shall be void and the Board shall issue a formal finding of no probable cause in the matter.

(e) Following the receipt or motion of a verified complaint, the Board may make preliminary investigations with respect to alleged violation of this chapter. No preliminary investigation of the activities of any elected or appointed official may be initiated unless such official is notified in writing. The notice shall state the exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated and a statement of such person's due process rights. Information gathered during the preliminary investigation shall be kept confidential until a finding is made by the Board under par. (f).

(f) If, after such investigation, the Board finds that probable cause exists for believing the allegations of the complaint, it shall conduct a hearing on the matter which shall be held not more than 30 days after such finding. The Board shall give the accused at least 20 days notice of the hearing date. Such hearings shall be at open session unless the accused petitions for a hearing closed to the public. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the Board considers, shall be fully offered and made part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(g) During all stages of any proceeding conducted under this section, the elected or appointed official whose activities are under investigation shall be entitled to be represented by counsel of his own choosing.

(h) The accused or his representative shall have an adequate opportunity to examine all documents and records to be used at the hearing under par. (d) at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses, to establish all pertinent facts and circumstances and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(i) The Board shall have the power to compel the attendance of witnesses and to issue subpoenas granted other boards and commissioners under §885.01(3), Wis. Stats.

CODE OF ETHICS 1.10(9)(j)

(j) Upon conclusion of the hearing the Board shall file its decision within 5 days in writing signed by all participating Board members with findings of fact, conclusions of law concerning the propriety of the conduct of the official and, if appropriate, refer the matter to the City Council or other proper authority with a recommendation for censure or other disciplinary action. A member of the Council censured may be subject to recall under §9.10, Wis. Stats., or any other legal process authorized by law.

(k) A majority vote of the Board shall be required for any action taken by the Board, with the exception that action taken by the Board pursuant to a hearing conducted under par. (f) shall require a unanimous vote.

(l) If the Board by unanimous vote at any time after an investigation has commenced finds that any complaint filed had no basis in fact and was frivolous or was brought for the purpose of harassment, it may award the costs of the proceedings, including reasonable attorney's fees, to the accused and assess those costs against the complainant.

(10) **APPLICABILITY OF CODE.** This code of ethics shall apply in all instances covered by its provisions except when superseded by an applicable statutory provision and statutory action is mandatory or when the application of a statutory provision is discretionary but determined by the Ethics Board to be more appropriate or desirable.

(11) **DISTRIBUTION OF THE CODE.** The City Clerk shall provide copies of this code to elected and appointed officials covered by this code and shall keep at least one copy permanently on file for the use of the public.

1.11 **PUBLIC RECORDS.** (1) **DEFINITIONS.** The following terms have the meanings indicated:

Authority. Any of the following entities having custody of a City record: an office, elected or appointed official, agency, board, commission, committee, council, municipal court, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

Custodian. That officer, department head, division head or employee of the City designated under sub. (3) or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his 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.

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

PUBLIC RECORDS 1.11(2)

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 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.

(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 predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which he 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 custody and the successor shall receipt therefor to the officer or employee who shall file such receipt with the City Manager. 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 CUSTODIANS. (a) Each elected or appointed official is the legal custodian of his records and the records of his office, but the official may designate an employee of his 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 City Council and for any committees, commissions, boards or other authorities created by ordinance or resolution of the City Council.

(c) For every authority not specified in pars. (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 staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under subch. II of Ch. 19, Wis. Stats., and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

PUBLIC RECORDS 1.11(4)

(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 §19.35(1), Wis. 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 \$.25/page. Such 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, 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.

7. Elected and appointed officials of the City 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 determines waiver or reduction of the fee to be in the public interest.

PUBLIC RECORDS 1.11(4)(g)

(g) Pursuant to §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. This subsection does not apply to members of the City Council. Each authority shall also prominently display at its offices for the guidance of the public a copy of §§19.31 to 19.39, Wis. Stats.

(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 §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 subpar. (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 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 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 §19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

(6) LIMITATIONS ON RIGHT TO ACCESS. (a) As provided by §19.36, Wis. 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.

PUBLIC RECORDS 1.11(6)(a)(2)

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 as a product of the computer program is subject to inspection.

4. A record or any portion of a record containing information qualifying as a common law trade secret.

(a) As provided by §43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.

(b) Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to Section 70.47 (7) (af), Wis. Stats., or any successor statute thereon, then, such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that said information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of his official duties); or pursuant to order of the court. Income and expense information provided to the Assessor under Section 70.47 (7) (af), unless a court determines that it is inaccurate, is, per Section 70.47 (7) (af), not subject to the right of inspection and copying under Section 19.35 (1), Wis. Stats., or Section 1.11 (4) of the Code of Ordinances.

(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 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, 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.

PUBLIC RECORDS 1.11(6)(c)(5)

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 §905.03, Wis. 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 non-utility 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 Ch. 442, Wis. Stats., but not less than 7 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 §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. Cancelled checks, duplicates and check stubs.
4. License and permit applications, stubs and duplicates.
5. Official bonds.
6. Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Plan.
7. Receipt forms.

PUBLIC RECORDS 1.11(8)

8. Special assessment records.

9. Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(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 Ch. 442, Wis. Stats., subject to State Public Service Commission regulations, but not less than 7 years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to §16.61(3)(e), Wis. Stats., and then after such a shorter period, except that sewer and water stubs, receipts of current billings and customers' ledgers may be destroyed after 2 years:

1. Contracts.
2. Excavation permits.
3. Inspection records.
4. Water stubs.
5. Sewer rental charge stubs.
6. Receipts of current billings.
7. Customer's ledgers.

(c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than 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 §16.61(3)(e), Wis. Stats., and then after such a 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. Oaths of office.
7. Reports of boards, commissions, committees and officials duplicated in the Board minutes.
8. Petitions.
9. Election notices.
10. Canceled registration cards.

PUBLIC RECORDS 1.11(d)

(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 §19.21(4)(a), Wis. 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.

(f) Police, fire, ambulance and related audio tapes may be destroyed, erased or reused after 120 days.

(8) PRESERVATION THROUGH MICROFILM. Any City officer or the director of any department or division of City government may, subject to the approval of the City Council, keep and preserve public records in his possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in §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 subs. (4) through (6) of this section.

1.12 MANDATING OF EMPLOYEE WAGES OR BENEFITS FOR PRIVATE SECTOR ENTITIES.

No ordinance of the City of Fond du Lac nor any other City of Fond du Lac rule or regulation shall mandate that any private sector entity shall provide certain wages or benefits to its employees or set forth the amount or type of any employee wages or benefits provided by an employer located within the City limits.

ACTING CITY MANAGER/ASSISTANT CITY MANAGER 1.20

OFFICIALS

1.20 **ACTING CITY MANAGER/ASSISTANT CITY MANAGER.** Before the general fund operating budget is adopted each year, the City Manager shall designate, subject to confirmation by the City Council, a qualified City administrative officer who, in addition to his other duties, shall serve as Assistant City Manager. In the temporary absence of the City Manager, the Assistant City Manager shall exercise the powers and perform the duties of City Manager. The individual so designated shall, in addition to his established salary, receive an annual dollar amount as may be established in the budget. During the City Manager's absence, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return.

BOARDS AND COMMISSIONS

1.30 **BOARDS AND COMMISSIONS APPOINTMENT PROCEDURE.** The following procedure for appointing boards and commissions shall govern the appointment of citizen members to any City board or commission that does not otherwise have a specific procedure authorized by statute or ordinance:

(1) **BOARD OR COMMISSION INPUT.** The City Manager shall solicit comments from the board or commission well in advance of a vacancy to help determine membership qualifications beneficial in attaining its mission.

(2) **PUBLIC SOLICITATION OF APPLICANTS.** The City Manager shall provide the news media with the board or commission's mission, the desired membership qualifications and the application procedures at least 6 to 8 weeks in advance of the vacancy, thereby enabling the media to advertise the impending vacancy and affording potential applicants ample time in which to apply.

(3) **CITY MANAGER RECOMMENDATION.** The City Manager shall advance an appointee recommendation to the City Council, accompanied by the application forms of all the applicants for the position.

(4) **CITY COUNCIL VOTE.** The City Council shall appoint the candidate for appointment to a board or commission by a majority vote.

1.31 **ADVISORY PARK BOARD.** (1) **PURPOSE.** The Advisory Park Board is hereby created for the purpose of increasing citizen involvement in the City park system by permitting the City Council to solicit recommendations from a citizen board regarding park planning, future use of park land and general park policy.

(2) **CONSTITUTION, BOARD MEMBERS, APPOINTMENTS, TERM.** The Advisory Park Board shall consist of nine (9) members, eight (8) who shall be residents of the City of Fond du Lac and shall not be municipal officials or staff, and one (1) who shall be appointed by the City Council from among its members. Members shall be appointed for a three-year term by the City Manager with confirmation by the City Council and Section 1.30 of this Code shall not apply to appointments, except those sections that

ADVISORY PARK BOARD 1.31(3)

provide for public solicitation of citizen appointments. All citizen terms shall commence on May 1 of the year appointed. The City Council may, by resolution, appoint not more than three additional ad hoc, limited-term members to address such specific issues as the Council shall determine.

(3) **ORGANIZATION, AUTHORITY, OFFICERS, MINUTES AND RECORDS.** The Board shall have the authority to establish rules governing the meeting and to elect a chairperson. Meetings shall be governed by and subject to the rules contained in Robert's Rules of Order, Newly Revised. A vice-chairman shall be elected who shall act as chairperson in the absence of the appointed chair. Meetings shall be tape recorded to provide a record of the Board's proceedings. Meetings of the Board will be open to the public and all records shall be kept on file with the City Clerk and open to inspection by the public at all reasonable hours. Regular meetings, if necessary, shall be held on the fourth Monday of each month. An agenda for each meeting shall be prepared by the City Manager to reflect matters of concern regarding the parks system as expressed by the City Council or citizens of the City and shall constitute notice under the Open Meeting Law. Pursuant to the Open Meeting Law, no item shall be discussed, unless noticed in the agenda. Special meetings may be called by the City Manager.

(4) **DUTIES, PURPOSE AND FUNCTIONS OF THE BOARD.** The Board shall:

(a) At the City Council's request, consider the future plans and goals for the use of the City parks system and make recommendations to the City Council regarding specific uses and policies affecting parks that will further these plans and goals. The Board's recommendations will be forwarded to the City Council, which shall not be bound by the Board's recommendation.

(b) Perform such other duties as may be requested from time to time by the City Council.

(c) Recommend action involving the parks system to the City Council based on requests of citizens where no current policy exists.

1.32 **BOARD OF POLICE AND FIRE COMMISSIONERS.** (1) The Board of Police and Fire Commissioners shall consist of 5 citizens appointed by the City Manager and confirmed by the City Council. Three commissioners shall constitute a quorum.

(2) The powers and duties of the commissioners shall be as provided in §62.13, Wis. Stats.

(3) The optional powers of §62.13(6), Wis. Stats., have not been adopted by the electors of the City and do not apply.

1.33 **BOARD OF REVIEW.** (1) The Board of Review shall consist of 5 residents of the City, none of whom shall occupy any public office or be publicly employed, appointed by the City Manager, with approval of the Council, for 5 year terms or until their successors are appointed and qualified.

LIBRARY BOARD 1.34

(2) Meetings, powers and duties of the Board of Review shall be governed by §§70.46 through 70.48, Wis. Stats.

1.34 **LIBRARY BOARD.** Pursuant to §43.54, Wis. Stats., the City public library shall be administered by a Library Board composed of 9 members: one Council member, an administrator for the School District or his representative and 7 citizen members appointed by the City Manager with the approval of the City Council. Members shall be residents of the City, except that not more than 2 members may be residents of towns adjacent to the City and shall be exempt from the residency requirements of this Code of Ordinances. Up to 2 additional members may be appointed to the Library Board by Fond du Lac County pursuant to §43.60(3), Wis. Stats.

1.35 **BOARD OF APPEALS.** (1) The Board of Appeals shall consist of 5 members appointed by the City Manager, with the approval of the Council, for terms of 3 years and without compensation. The City Manager shall designate one of the members as chairman. Terms of not more than 2 members shall expire in any one calendar year. The City Manager shall appoint, for staggered terms of 3 years, 4 alternate members of the Board. Annually the City Manager shall designate the alternates as first alternate, second alternate, third alternate, and fourth alternate. The first alternate shall act with full power only when a member of the Board refuses to vote because of interest or when a member is absent. The remaining alternates shall so act only when a preceding alternate so refuses or is absent or when more than one member of the Board so refuses or is absent.

(2) The Board of Appeals shall function pursuant to §62.23(7), Wis. Stats.

1.36 **BOARD OF ELECTRICAL EXAMINERS.** (1) The Board of Electrical Examiners shall consist of 5 members, selected by the City Manager and confirmed by the City Council, chosen as indicated from each of the following groups:

- (a) An electrician or electrical engineer from the local utility company.
- (b) Two licensed master electricians.
- (c) One licensed journeyman electrician.
- (d) One plant electrician.

(2) The Electrical Inspector shall be secretary of the Board, but shall not be a voting member.

(3) Members shall be appointed by the City Manager for 2 year terms beginning the first Monday in July. The master electricians shall be appointed in June of the even numbered years and the remaining members shall be appointed in June of the odd-numbered years. All members shall hold office until the last day of June in the year their terms expire or until their successors have been appointed and qualified.

BOARD OF ELECTRICAL EXAMINERS 1.36(4)

(4) Three members shall constitute a quorum for the transaction of business, but no recommendations for the issue, suspension or revocation of a license shall be adopted except by a vote of 3 members of the Board.

(5) All applications for electrical licenses shall be referred by the Electrical Inspector to the Board of Electrical Examiners who shall properly investigate and report to the Electrical Inspector as to the qualifications and competency of the applicants in the installation of electrical wiring and equipment.

(6) The Board shall meet on the 2nd Wednesday of each month for the consideration of applications or any other business that may come before such meeting.

(7) The Board shall also act as an arbitration board.

1.37 CITY PLAN COMMISSION. (1) The City Plan Commission shall have 7 members which shall consist of the Director of Public Works, one Council member elected by a majority vote of the City Council, and 5 citizen members appointed by the City Manager and confirmed by the City Council.

(2) The City Plan Commission each April shall choose a presiding officer from among its members.

(3) The City Plan Commission shall adopt rules for the holding and conducting of its meetings. Regular meetings shall be held on the first Monday after the second Wednesday of each month, except in December when the regular meeting shall be held on the first Monday after the first Wednesday.

1.38 ADVISORY PARKING AND TRAFFIC BOARD. (1) PURPOSE. In order to assist the City Council by recommending needs related to parking and traffic within the City, an advisory body to be known as Advisory Parking and Traffic Board is created. The Board shall further be charged with implementing traffic and transportation planning consistent with the City's transportation development plan and the transportation component of the City's comprehensive plan.

(2) MEMBERSHIP. The Board shall be composed of 7 members: 6 shall be appointed by the City Council from the City at large; one member shall be appointed by the City Council at the annual organizational meeting. The City Manager may designate appropriate City staff members to provide necessary resources and technical support for the Board. Citizen members shall be appointed for a term of 3 years, the Council member for one year. Vacancies on the Board shall be filled by the City Manager in conformance with §1.30 of this subchapter.

(3) OFFICERS. Annually during the month of April the Board shall elect from its membership a chairman and vice-chairman. The chairman shall preside over the Board at its meetings and shall have the right to vote. The vice-chairman shall, in case of absence of the chairman, perform the duties of the chairman. A majority of the Board membership shall constitute a quorum for the transaction of business. All meetings of

ADVISORY PARKING & TRAFFIC BOARD 1.38(4)

the Board shall be open to the public and any person shall be entitled to appear and be heard on a matter before the Board announces its decision on that matter.

(4) RULES. The Board shall adopt such rules and regulations as are necessary to carry out its purposes.

1.39 **CITY-COUNTY BUILDINGS BOARD.** (1) MEMBERSHIP. The Board shall be composed of 7 elected officials of the City and county as follows: the County Board Chairman, Chairman of the County Buildings and Supplies Committee and Chairman of the County Finance Committee; 3 members appointed by the City Council; one member appointed by the other members. Members shall serve 3 year staggered terms. If a member of the Board ceases to hold his City or county office, his membership on the Board also terminates. Vacancies shall be filled for an unexpired term in the manner in which the original appointment was made. Appointees shall serve until their successors are appointed and qualified. Appointments shall commence on the first day of May of the year of appointment.

(2) COMPENSATION. Members shall receive such compensation as is established by ordinance adopted by their parent legislative body. County members shall be compensated by the county on the same mileage and per diem as is paid to county supervisors for committee meetings.

(3) POWERS. (a) Government Center. The Board shall have power to enact, amend and repeal rules and regulations not inconsistent with law for the governing, managing, operating and maintenance of the City-County Government building and grounds. The intent of this section is to delegate all powers relating to governing, managing, operating and maintaining the building and grounds as is legally delegable. Anything not included in original construction costs for equipment and supplies,

window shades, shelving, painting and decorating in any room or department of the Government Center which have been previously allocated or which may hereafter be allocated to any department of either the City or County must be paid by that department or unit of government and receive prior approval from the Board, although payment of these expenses is not an obligation of the Board. This Board is responsible for the distribution of keys to the Government Center. This Board sets the policy pertaining to vending machines and food service which are to be bid at least every 2 years.

(b) Safety Building. This Board shall have power to enact, amend and repeal rules and regulations not inconsistent with law for the governing, managing, operating and maintaining of the City-County Safety Building. The intent of this section is to delegate all powers relating to governing, managing, operating and maintenance of the building as is legally delegable. All expenses for office equipment and supplies, window shades, shelving, painting and decorating in any room or department of the Safety Building which have been previously allocated or which may hereafter be allocated shall be paid for by the department or unit of government and shall not be an obligation of this Board. Nothing herein shall be construed so as to affect the powers and duties of

CITY-COUNTY BUILDINGS BOARD 1.39(4)

the Sheriff or the Chief of Police as provided for by law. The Sheriff shall be reimbursed by the unit of government responsible for incarceration of prisoners for meals served at the rate set by the County Board.

(4) BUDGET. The Board shall annually prior to the time of the presentation of either the county or City budget under §65.90, Wis. Stats., prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the City. A certified copy of the budget, which shall include a statement of the net amount required from the county and the City, shall be delivered to their respective clerks. The county board and the City Council shall consider such budget and determine the amount to be raised by the respective municipalities in the proportions as calculated by the physical allocation of space utilized by each governing body.

(5) AFFECT OF ADOPTION. Upon adoption of this joint ordinance and appointment of the members of the Board, all prior agreements shall terminate and duties and functions of previous committees shall vest in the City-County Buildings Board.

1.40 SENIOR CITIZENS ADVISORY COMMITTEE. (1) CONSTITUTION; BOARD MEMBERS; APPOINTMENTS; TERM. The Senior Citizens Advisory Committee shall consist of 9 members; 4 citizens who shall be appointed by the City Council pursuant to §1.30 of this subchapter, one City Council member who shall be appointed annually at the Council organizational meeting, 3 members which are City residents that are active users of the Senior Center and are elected by the users of the Senior Center and one member which is appointed by the Board of Directors of the Friends of the Fond du Lac Senior Center, Inc. The 8 citizen members shall serve for a term of 2 years and may not serve for more than 2 consecutive terms.

(2) ORGANIZATION; AUTHORITY; OFFICERS; MINUTES AND RECORDS. The Committee shall have the authority to establish rules governing their meeting and to elect officers. Officers shall include a chairman, vice-chairman and secretary. The secretary will keep accurate minutes of the Committee. Meetings of the Committee will be open to the public and all records shall be kept on file and open to inspection of the public at all reasonable hours.

(3) DUTIES, PURPOSES AND FUNCTIONS OF COMMITTEE. The Committee shall:

(a) Represent the senior citizens in the community, be aware of their concerns and make recommendations for action by the City Council as appropriate.

(b) Serve as a liaison to the County's Commission on Aging.

(c) Serve in an advisory capacity to the Senior Center Director on Center operations, budgeting, programming and related matters.

1.41 BOARDS, COMMISSIONS AND COMMITTEES; UNEXPLAINED ABSENCES. (1) Wherein the City Manager or Council President has appointed members of boards,

SENIOR CITIZENS ADVISORY COMMITTEE 1.41

commissions or committees in utilizing the authority provided by Ch. 64, Wis. Stats., such board, commission or committee members shall be limited in terms of office to serve for a period of 3 terms and a maximum period of 10 years. Whenever the boards, commissions or committees do not provide within their own rules for vacation of office after 3 unexcused absences from meetings per year, the City Manager shall cause a member's term of office to be vacated and shall appoint another to his stead.

(b) Unless permitted by statute or another provision of this Code of Ordinances, no person who is not a resident of the City shall be appointed or selected to serve on any board, commission or committee of the City. An appointed member of any board, commission or committee who removes his residence from the City shall be eligible to serve the remainder of his term, but thereafter be ineligible for appointment. This language shall not require the removal of any person presently serving on any board, commission or committee on or before the effective date of this section but will apply to appointments or selections after that date.

Historical Updates			
Page	Paragraph	Ordinance No.	Date Adopted
p. 17	1.31 (2)	2679	06/23/93
p. 15	1.11(7)(f)	2726	02/23/94
p. 19	1.35 (1)	2913	11/12/97
p. 12	1.11 (6) (bc)	2977	09/08/99
p. 21	1.37(1)	3006	04/26/00
p. 19	1.37(3)	3389	1/14/09
p. 19	1.37(4) Repealed	3389	1/14/09
p. 15	1.12 Created	3401	2/25/09