

**Village of Richfield
Public Record Request Policy**

1.0 PURPOSE:

The purpose of this policy is to create guidelines for Village staff to correctly handle public records requests from the public. It is also intended to be a reference document for the public regarding their rights and responsibilities regarding placing records request to the Village of Richfield. This policy outlines the procedure of processing public records requests in accordance with Chapter 19, Subchapter II, Wisconsin Statutes. Public records requests must be managed correctly to preserve the integrity of Village documents, the privacy of employees, and to ensure the public is allowed relatively effortless access to Village records in accordance with applicable laws.

2.0 ORGANIZATIONS AFFECTED:

This policy applies to all with the intent to gain access to public records from the Village of Richfield and to Village staff that are designated as records custodians for their respective department.

3.0 POLICY:

IT IS THE GOAL OF THE VILLAGE TO FOLLOW ALL THE GUIDELINES DICTATED IN THIS POLICY, IN LOCAL ORDINANCES, AND STATE LAWS REGARDING PUBLIC RECORDS, FOR ALL PUBLIC RECORDS REQUESTS FROM ANY MEMBER OF THE PUBLIC. IN THE EVENT OF ANY CONFLICT BETWEEN WISCONSIN STATUTES AND/OR COMMON LAW INTERPRETING WISCONSIN STATUTES AND LOCAL ORDINANCES OR POLICY, THE WISCONSIN STATUTES AND/OR COMMON LAW INTERPRETING WISCONSIN STATUTES SHALL CONTROL.

4.0 GENERAL INFORMATION ON ACCESS TO RECORDS:

Access to the Village's records may be obtained during normal business hours, which, on the date of adoption of this policy, are Monday through Friday, except holidays, from 7:30 a.m. to 4:30 p.m. at Village Hall, 4128 Hubertus Road, Richfield Wisconsin, 53033.

5.0 DEFINITIONS:

Authority: Any of the following Village entities having custody of a Village record: an office, elected official, agency, board, commission, committee, council department or public body corporate and politic created by constitution, statutes, ordinances, rules or orders. Nothing herein is intended to define "authority" narrower than as defined in Section 19.32(1), Wisconsin Statutes, and in the event this definition excludes persons or entities encompassed by the statute, the statute shall control.

Legal Custodian: An Official, officer, department head, or any employee of the Village designated or otherwise responsible by law to keep and preserve Village records and files, deposit or keep such records in their office or is lawfully in possession or entitled to possession of such public records and who is required by the Village to respond to request for access to such records. Nothing herein is intended to conflict with the records custodian designations made in Section 19.33, Wisconsin Statutes, and in the event of a conflict, the statute shall control; provided, however, that where the statute allows designations to be made, this definition shall be interpreted to make such designation.

Record: Any material which is 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. The term “record” includes, but is not limited to, written materials, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks, electronic records and communications. The term “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 person for whom the originator is working; Materials that are the personal property of the custodian and do not relate to the custodian’s office; Materials which access is limited by copyright, patent or bequest are not public record; Published materials of an authority available for sale and published materials available for inspection in a public library are not records. However, if a draft or preliminary document is used as if it were a final document; it is not excluded from the definition of record. Nothing herein is intended to define “record” narrower than as defined in Section 19.32(2), Wisconsin Statutes, and in the event this definition excludes material encompassed by the statute, the statute shall control.

Contractor’ Records: Subject to [section 19.36\(12\)](#), each authority shall make available for inspection and copying, any record produced or collected under a contract entered into by the authority with a person other than an authority to the same extent as if the record were maintained by the authority. This subsection does not apply to the inspection or copying of a record under [section 19.35 \(1\) \(am\)](#).

6.0 DUTY TO MAINTAIN RECORDS:

Each officer or employee of the Village shall keep and preserve all records received from their predecessor or other persons as required by law. Upon termination of employment with the Village, each officer or employee shall deliver to their successor all custodial records. If a vacancy occurs before a successor is found, all records of that position shall become the responsibility of the immediate supervisor or Village Deputy Clerk.

7.0 PUBLIC ACCESS TO RECORDS:

7.1 Except as provided in Section 8.0 and 10.0, and subject to the limitations of Section 11.0 and applicable laws, any person has a right to inspect a record and to receive a copy of any record as provided in §19.35(1), Wis. Stats.

- 7.2 Records will be available for inspection during all regular office hours.
- 7.3 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.
- 7.4 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 redact the information that may not be made public from the record before release. The custodian shall confer with the Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If in the judgment of the custodian and the Village 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.
- 7.5 If a record does not exist, the custodian is not required to create a record.
- 7.6 In determining whether to release a record, the custodian shall weigh the public policies favoring disclosure of public records, including the presumption of openness as described in Wisconsin Statute Section 19.31, and the public policies favoring non-disclosure, in each case.
- 7.7 Records requests are deemed sufficient if they reasonably describe the requested record and the information requested. However, a request for a record without a reasonable limitation as to subject matter and length of time represented by the record does not constitute a sufficient request. In other words a records request must be reasonably specific as to subject matter and length of time involved. Requests which are vague and/or confusing may be denied.
- 7.8 The right of access to records applies only to existing records at the time a request is made. "Ongoing" or "continuing" requests are not permitted nor contemplated by state law.
- 7.9 Electronic Records: Requestors are not to be given direct access to electronic databases, due to the risks that confidential information not subject to disclosure may be viewed, and that the database might be inadvertently or intentionally altered or damaged. Copies of electronic data will be provided to requestors in an appropriate format. See *WIREData, Inc. v. Village of Sussex, et al.*, 2008 WI 69 ¶ 97.

8.0 LIMITATIONS ON DISCLOSURE OF INFORMATION AND RECORDS INVOLVING VILLAGE EMPLOYEES:

Custodians are responsible for complying with the Wisconsin Statutes placing limitations on disclosure of information pertaining to Village employees and officials.

8.1 Employee Personnel Records, Access Prohibited.

Unless access is specifically authorized or required by statute, a custodian shall not provide access to records containing the following information (except to an employee or the employee's representative to the extent required under Wis. Stat. §103.13 or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain under Wis. Stat. ch. 111 or pursuant to a collective bargaining agreement under ch. 111):

8.11 Information maintained, prepared, or provided by the Village concerning the home address, home electronic mail address, home telephone number, or social security number of an individual who holds a local public office or a state public office, or an employee, unless the official or employee authorizes granting access to such information. This subsection does not apply to release of the home address of an individual who holds an elective public office, or to the home address of an individual who holds an elective public office, or to the home address of an individual who, as a condition of employment, is required to live in a specified location. (§§19.36(10), and 19.36(11), Stats.)

8.12 Information relating to the current investigation of a possible criminal offense or possible misconduct connected with employment by an employee prior to disposition of the investigation. (§19.36(10)(b), Stats.)

8.13 Information pertaining to an employee's employment examination provided, however, that access to the examination score may be permitted if access to that score is not otherwise prohibited. (§19.36(10)(c), Stats.)

8.14 Information relating to one or more specific employees that is used by the Village for staff management planning, including performance evaluations, judgments, or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference, or other comments or ratings relating to employees. (§19.36(10)(d), Stats.)

8.15 Employee names/personally identifiable information of a contractor required to pay prevailing wage rate unless otherwise authorized by the

specific employee or by state statutes. A custodian may, however, release an employee's work classification, hours, wages, and benefits while working on such a project. (§19.36(12), Stats.)

8.2 Employee Records Requiring Notice and Review Opportunity.

Under Wis. Stat. §19.356(2), a custodian making a determination to release the records described in subsections 8.21 through 8.23 must give written notice to the subject employee by personal service or certified mail within three (3) days of making that determination, per Section 19.356(2), Wis. Stats. The written notice must describe the record and explain the employee's rights under Wis. Stats. §§19.356(3) and (4). Employees receiving such notice have five (5) days within which to give the Village notice of intent to seek judicial review of the custodian's decision to disclose the record and ten (10) days within which to initiate an action to block release of the record by the Village. No disclosure of the record may be made pending the employee's response, or within 12 days of sending the notice, whichever is shorter. If an action is commenced, no record may be disclosed unless the court makes a determination permitting disclosure. These procedures apply only to the following records:

- 8.21 A record containing information relating to an employee that is created or kept by the Village and results from an investigation into a disciplinary matter involving the employee or possible employment-related violation by the employee of a statute, ordinance, rule, regulation, or policy of the Village.
- 8.22 A record obtained by use of a subpoena or search warrant.
- 8.23 A record prepared by an employer other than the Village if that record contains information relating to an employee of that employer, unless the employee authorizes the Village to provide access to that information.

9.0 FEES FOR INFORMATION REQUESTS:

- 9.1 Photocopies: The Village shall collect from the requester actual costs for copying of **25 cents per page-**, if applicable (if double sided material, the cost is 25 cents per page.)
- 9.2 Other Reproductions/Duplication: The Village shall collect from the requester the actual, necessary, and direct costs for providing duplication of any item not otherwise included in this section, by electronic means or otherwise. For example, if the Village has photographs in its possession, and a requestor wants to obtain duplicates (as opposed to photocopies), the Village shall collect from a requestor the actual, necessary and direct cost of obtaining duplicate prints of the photographs. The cost of reproduction/duplication shall include the actual costs of the medium that the information is copied to.

- 9.3 SVRS Data File or Poll Lists: The cost for downloading files from the Statewide Voter Registration System is set by the State at **\$25.00 per disk, plus an additional \$5.00 per 1000 names on the report.**
- 9.4 Mailing Costs. If a requestor asks that records be mailed or shipped to the requestor, the Village shall collect from the requestor the actual, necessary, and direct costs of such mailing or shipping.
- 9.5 Location Costs: Costs associated with locating records may not be charged unless they total \$50.00 or more. Only actual, necessary, and direct location costs are permitted. Wis. Stat. § 19.35(3)(c).
- 9.6 Additional Fees: All additional fees authorized by law shall be charged by the Village to the requester.
- 9.67 Prepayment of Fees: Prepayment of fees is required if the fee exceeds \$5.00.
- 9.8 Waiver of Fees: As permitted under Wis Stats. 19.35(3)(e), the Village may provide copies of a record without charge or at a reduced charge where the Village determines that waiver or reduction of the fee is in the public interest.

10.0 ACCESS PROCEDURES:

A request to inspect or copy a record shall be made to the records custodian. Each authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester in writing of the authority's determination to deny the request in whole or in part and the reasons thereof. If documents are not easily retrieved, the requester generally should be notified of the receipt of the request within 7 business days (not including weekends or holidays). A request must be in writing before an action to enforce the request is commenced under §19.37, Wis. Stats. Therefore, it shall be the policy of the Village that a records custodian shall only respond to requests made in writing

11.0 LIMITATIONS ON RIGHT TO ACCESS TO PUBLIC RECORDS:

As provided by §19.36, Wis. Stats., the following records are exempt from inspection under this section:

- 11.1 Records specifically exempted from disclosure by State or Federal law or authorized to be exempted from disclosure by State law;
- 11.2 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;

- 11.3 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;
- 11.4 A record or any portion of a record containing information qualifying as a common law trade secret.
- 11.5 In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Village Attorney, may deny the request in whole or in part, only if determined that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record.

12.0 DESTRUCTION OF RECORDS:

The destruction of Village records shall be governed Wis. Stats. §19.21, §16.61, and local ordinance. The Village will retain records for at least the minimum period of time required by Statute or local ordinance.

CUSTODIANS OF VILLAGE RECORDS

Village Administrator: Joshua Schoemann, 262-628-2260
administrator@richfieldwi.gov

The Village Administrator is the custodian of all personnel records.

Deputy Village Clerk: Caroline Fochs, 262-628-2260 or deputyclerk@richfieldwi.gov

The Deputy Village Clerk is responsible for maintaining all Village records is the custodian of all records of the Village pertaining to the Village Board matters, legal documents/recordings, elections, liquor licensing, pet licensing, recycling and garbage collection, ordinances, and resolutions.

Deputy Treasurer: Donna Jackson, 262-628-2260 or donna@richfieldwi.gov

The Village Treasurer, or her designee, is custodian of all records pertaining to payroll, budgetary files, accounts receivable and payable, special projects and special assessments, tax bills, bank statements, and investments.

Assessor: Mike Grotta, 262-253-1142 or mike@wi-assessor.com

The Village Assessor, or his designee, is the custodian of all records pertaining to real estate assessments.

Public Works and Parks Superintendent: Ryan Welsing, 262-628-1381 or dpw@richfieldwi.gov

The Public Works and Parks Superintendent, or his designee, is the custodian of all records pertaining to street improvements, utility billing, department equipment, sanitary water and sewer, storm water, and Village parks.

Community Services Coordinator: Jim Healy, 262-628-2260 or planner@richfieldwi.gov

The Community Services Coordinator, or his designee, is custodian for all records pertaining to the business of the plan commission, site plan reviews, preliminary and final plats, zoning, rezoning, and mapping.

Building Inspector: Joel Jaster, 262-628-2260 or inspector@richfieldwi.gov

The Building Inspector, or his designee, is custodian of all records pertaining to building permits.

Fire Chief: Terry Kohl, 262-628-0106 or rvfd@richfieldfire.com

The Fire Chief, or his designee, is the custodian of all records pertaining to the administration of the Village Fire Department activities.

Richfield Village Board of Trustees

The Deputy Clerk is the custodian of all records of the Board of Trustees. However, each trustee is the custodian of all records generated outside of the Village Hall (such as e-mail sent to their homes) and business conducted personally outside of the Deputy Clerk's knowledge.

Any information given orally or in writing by Village officials, may be subject to errors or omissions, and shall not be a binding liability upon the Village of Richfield. In accordance with Chapter 19, Wisconsin Statutes, each requester is entitled to examine public records of any office of the Village of Richfield.

The Village Board does not keep regular office hours but may be contacted by the following phone number or e-mail address below.

Village President: John Jeffords, 262-628-2260 or villagepresident@richfieldwi.gov

Trustees: Rock Brandner, 262-628-1665 or trusteebrandner@richfieldwi.gov

Sandy Voss, 414-840-5768 or trusteevoss@richfieldwi.gov

Dan Neu, 262-628-0177 or trusteedanneu@richfieldwi.gov

Michael Shea, 262-628-0157 or trusteeshea@richfieldwi.gov