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From the Director Department of Administrative Services requesting authorization to amend section 32.65 and 32.66 of the Milwaukee County code of general ordinances relating to record retention/disposition for the County, by recommending adoption of the following:

**A REVISED RESOLUTION/ORDINANCE**

WHEREAS, in May 2010, the Wisconsin Public Records Board (WPRB) approved a County Records Retention/Disposition Schedule (the Schedule) for Wisconsin counties to voluntarily adopt; and

WHEREAS, the Department of Administrative Services (DAS) seeks to revise and opt into the Schedule recommended by the WPRB, as it provides a more streamlined process for records retention than currently provided for in Sections 32.65 and 32.66 of the Milwaukee County Code of General Ordinances (the Code); and

WHEREAS, DAS requests approval to repeal Sections 32.65 and 32.66 of the Code and to amend Sections 56.14 and 56.29 of the Code in order to adopt the Schedule; and

WHEREAS, DAS requests an appropriation transfer of \$400,000 to use funds from contingencies for record disposition and this upfront cost is estimated to result in \$146,250 in annual savings; and

WHEREAS, the Committee on Judiciary, Safety, and General Services (JSGS), at its meeting of September 9, 2021, File No. 21-793 was laid over for one meeting cycle (vote 5-0); and

WHEREAS, the Committee on JSGS, at its Special Virtual Meeting of October 12, 2021, postponed File No. 21-793 to a day certain [October 12, 2021] (vote 5-0); and

WHEREAS, the Committee on JSGS, at its Special Virtual Meeting of October 21, 2021, postponed File No. 21-793 to a day certain [October 29, 2021] (vote 5-0); and

WHEREAS, the Committee on JSGS, at its Special Virtual Meeting of October 29, 2021, recommended adoption of File No. 21-793 (vote 3-2); now, therefore,

BE IT RESOLVED, the Department of Administrative Services is hereby approved for a \$400,000 unallocated contingency transfer to pay for the destruction of eligible records; and

46 BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors  
47 hereby amends Sections 32.65, 32.66, 56.14, and 56.29 of the Milwaukee County Code  
48 of General Ordinances by adoption of the following  
49

50 **AN ORDINANCE**

51  
52 The County Board of Supervisors of the County of Milwaukee does ordain as follows:  
53

54 **SECTION 1.** Section 32.65 of the Milwaukee County Code of General Ordinances is  
55 hereby amended as follows:  
56

57 ~~**32.65. -- Record center.**~~

58 ~~(1) Authority. A county-wide record center shall be established by the~~  
59 ~~department of administration for the storage, management and control of~~  
60 ~~inactive departmental records.~~

61 ~~(2) Policy. It shall be the policy of the county that all departments shall utilize~~  
62 ~~the record center for the storage of inactive departmental records which are~~  
63 ~~required to be retained. Inactive records are defined as those which must be~~  
64 ~~retained beyond the established departmental office storage period of the~~  
65 ~~county records committee approved retention schedule. The county records~~  
66 ~~committee, at the request of departments, may authorize alternative records~~  
67 ~~storage arrangements of inactive departmental records.~~  
68

69 **SECTION 2.** Section 32.66 of the Milwaukee County Code of General Ordinances is  
70 hereby amended as follows:  
71

72 ~~**32.66. -- Records management services.**~~

73 ~~(1) The department of administration shall establish and administer a records~~  
74 ~~management program which shall provide services to all county departments~~  
75 ~~pursuant to guidelines promulgated by the county records committee~~  
76 ~~pursuant to section 56.14(3) of the Code. The services shall include, without~~  
77 ~~limitations by way of enumeration, the following:~~  
78

- 79 ~~(a) Store inactive records, including vital records.~~
- 80 ~~(b) Document disposal of obsolete records including confidential records.~~
- 81 ~~(c) Evaluate records retention requests.~~
- 82 ~~(d) Prepare, coordinate and maintain records retention schedules.~~
- 83 ~~(e) Propose, advise and review departmental records retention schedules~~  
84 ~~and practices.~~
- 85 ~~(f) Evaluate new records storage, microfilm and imaging systems.~~
- 86 ~~(g) Train, consult with and advise county departments in all phases of~~  
87 ~~records management to advance modern and efficient records handling~~  
88 ~~practices.~~
- 89 ~~(h) Respond to requests for records made by county departments.~~
- 90 ~~(i) Respond to open records requests by members of the public through~~  
91 ~~county departments pursuant to subsection (4) below.~~

92 ~~(j) Make records available to the director of audits at any and all times with~~  
93 ~~or without notice in accordance with the provisions of county Ordinance~~  
94 ~~57.04.~~

95  
96 ~~(2) The department of administration shall provide staffing to the county~~  
97 ~~records committee as established by section 56.14(3).~~

98  
99 ~~(3) The department of administration shall charge for storage and retrieval~~  
100 ~~services which shall be approximately equivalent to the cost of such services~~  
101 ~~including overhead and depreciation of equipment. The prices for such~~  
102 ~~services shall be periodically adjusted, based upon cost analysis.~~

103  
104 ~~(4) The legal custodian of each record stored at the record center shall~~  
105 ~~continue to be the director for that department which originated such record.~~  
106 ~~Access to each record stored in the record center shall be determined by such~~  
107 ~~legal custodian.~~

108  
109 **SECTION 3.** Section 56.14 of the Milwaukee County Code of General Ordinances is  
110 hereby amended as follows:

111  
112 56.14. - Records management.

113  
114 (1) ~~Policy. Programs for proper management of county records are deemed~~  
115 ~~necessary to promote economy and efficiency in the day-to-day recordkeeping~~  
116 ~~activities of the county government and to provide for preservation and~~  
117 ~~safekeeping of vital records. Purpose. The purpose of this ordinance section is to~~  
118 ~~establish a county record retention schedule and authorize destruction of county~~  
119 ~~records pursuant to the schedule on an annual basis. Records custodians may~~  
120 ~~destroy a record prior to the time set forth in the schedule only if such a record~~  
121 ~~has been reproduced as an original record pursuant to s. 16.61(7) or s. 16.612,~~  
122 ~~Wis. Stats.~~

123  
124 (2) Definitions. As used in this section:

125  
126 (a) "Record" means ~~document, book, paper, photograph, sound recording,~~  
127 ~~magnetic tape, microfilm, or other material, regardless of physical form or~~  
128 ~~characteristics, made or received pursuant to law or ordinance or in~~  
129 ~~connection with the transaction of official business. Library and museum~~  
130 ~~material, made or acquired and preserved solely for reference or exhibition~~  
131 ~~purposes, and stocks of publications and unprocessed forms, are not~~  
132 ~~included within the definition of records as used in this section. any material~~  
133 ~~on which written, drawn, printed, spoken, visual or electromagnetic~~  
134 ~~information is recorded or preserved, regardless of physical form or~~  
135 ~~characteristics, which has been created or is being kept by an authority.~~  
136 ~~"Record" includes, but is not limited to, handwritten, typed or printed pages,~~  
137 ~~maps, charts, photographs, films, recordings, tapes (including computer~~

138 tapes) and computer printouts, optical discs, and any other medium on which  
139 electronically generated or stored data is recorded or preserved. "Record"  
140 does not include drafts, notes, preliminary computations and like materials  
141 prepared for the originator's personal use or prepared by the originator in the  
142 name of a person for whom the originator is working; materials which are  
143 purely the personal property of the custodian and have no relation to his/her  
144 office; materials to which access is limited by copyright, patent or bequest;  
145 and published materials in the possession of an authority other than a public  
146 library which are available for sale, or which are available for inspection at a  
147 public library.

148  
149 (b) "Unit" means any department, institution, office, commission, board or agency of  
150 the county excluding constitutional officers and the courts.

151  
152 (c) "County record" means any record prepared or received by any unit of the county  
153 government.

154  
155 (3) ~~County records committee. The county records committee (hereinafter~~  
156 ~~referred to as "committee") shall consist of the following five (5) members or~~  
157 ~~their designees: corporation counsel; comptroller; director, department of~~  
158 ~~administrative services, who shall serve as chairperson; director of~~  
159 ~~transportation; and director of the county historical society. The department~~  
160 ~~of administrative services shall furnish necessary staff assistance to the~~  
161 ~~committee. The committee shall provide general guidelines to the department~~  
162 ~~records management program to promote efficient and economical~~  
163 ~~management methods for the retention, preservation and disposition of~~  
164 ~~county records. All County records for which a specific retention period is~~  
165 ~~not established by State Statutes, Administrative Code, Federal law or~~  
166 ~~regulation, shall be retained by for a period of not less than seven (7) years,~~  
167 ~~unless another retention period is designated in Milwaukee County~~  
168 ~~Ordinance.~~

169  
170  
171 (4) ~~Duties of committee. The committee shall, with due regard for the functions of~~  
172 ~~the units concerned: The "Records Management and Retention Ordinance of~~  
173 ~~Milwaukee County" as attached to Ordinance [ ] and amended by this~~  
174 ~~ordinance, is adopted by reference as though fully set forth herein. This~~  
175 ~~ordinance and any amendments hereto shall be provided promptly to each~~  
176 ~~department head by the County Clerk. Department heads assume~~  
177 ~~responsibility for notice and compliance within their respective departments.~~

178  
179 (a) ~~Establish standards, procedures and techniques for effective management~~  
180 ~~of records. This shall include standards for use of filing equipment, microfilm,~~  
181 ~~central records depositories, methods of record destruction, etc.~~  
182

183 ~~(b) Establish procedures for preparation of schedules providing for retention~~  
184 ~~of county records of continuing value, and for prompt and orderly disposal of~~  
185 ~~records no longer possessing sufficient administrative, legal or fiscal value to~~  
186 ~~warrant their further keeping.~~

187  
188 ~~(c) Establish procedures to insure the maintenance and security of the~~  
189 ~~county's vital records.~~

190  
191 ~~(d) Obtain reports from units as are required for the administration of the~~  
192 ~~program.~~

193  
194 ~~(e) Approve retention schedules.~~

195  
196 ~~(f) Establish safeguards against unauthorized or unlawful removal or loss of~~  
197 ~~county records, including the right to initiate action to recover county records~~  
198 ~~removed unlawfully or without authorization.~~

199  
200 (5) *Duties of unit heads.* The head of each unit shall:

201  
202 (a) Establish and maintain an active, continuing program for proper management  
203 of the records of the unit.

204  
205 (b) Make and maintain records containing adequate and proper documentation of  
206 the organization, functions, policies, decisions, procedures and essential  
207 transactions of the unit designed to furnish information to protect the legal and  
208 financial rights of the county and of persons directly affected by the unit's  
209 activities.

210  
211 ~~(c) Submit to the committee for their approval, in accordance with the~~  
212 ~~standards established by them, schedules proposing the length of time~~  
213 ~~each county record series warrants retention for administrative, legal or~~  
214 ~~fiscal purposes after it has been received by the unit.~~

215  
216 ~~(d) Cooperate with the committee in the conduct of surveys made by them~~  
217 ~~pursuant to the provisions of this section.~~

218  
219 ~~(e) Comply with the rules, regulations, standards and procedures issued by~~  
220 ~~the committee.~~

221  
222 (6) *Records not to be damaged or destroyed.*

223  
224 (a) All records made or received by or under authority of or coming into custody,  
225 control or possession of county personnel in the course of their public duties are the  
226 property of the county and shall not be mutilated, destroyed, transferred, removed or  
227 otherwise damaged or disposed of, in whole or in part, except as provided by law.

228

229 **(b) A record, which has been requested by the public, shall not be destroyed**  
230 **until after the request is granted or 60 days after the request is denied. If an**  
231 **action is commenced under s. 19.37, Wis. Stats., the requested record shall**  
232 **not be destroyed until a court order is issued and all appeals have been**  
233 **completed. See s. 19.35(5), Wis. Stats. No record subject to pending litigation**  
234 **or audit shall be destroyed until the litigation or audit has been resolved.**  
235

236 (7) *Disposal of records.* No record shall be destroyed or otherwise disposed of, by any  
237 unit of the county, unless done so in accordance with the adopted retention schedule  
238 and notification to the county and/or state historical society, if required. This section  
239 does not supersede sections of the statutes establishing specific retention schedules.  
240

241 ~~(8) *Destruction of nonrecord materials.* Nonrecord materials or materials not~~  
242 ~~included within the definition of records as contained in this chapter may, if not~~  
243 ~~otherwise prohibited by law, be destroyed at any time by the unit in possession of~~  
244 ~~such materials without prior approval of the committee. However, this~~  
245 ~~presupposes notification to the law library as specified in section 100.06(1) of the~~  
246 ~~Code. The committee may formulate procedures and interpretations to guide in~~  
247 ~~disposition of nonrecord materials.~~  
248

249 ~~(9) *Appeal procedure.* Any unit head may appeal from a decision or regulation of~~  
250 ~~the committee to the county board committee on judiciary, safety and general~~  
251 ~~services, whose decision shall be final.~~  
252

253 ~~(10) *Rules and regulations.* The committee shall promulgate such rules and~~  
254 ~~regulations as are necessary or proper to effectuate the purposes of this section~~  
255 ~~and the related laws of the state.~~  
256

257 ~~(11) *Progress reports.* Progress reports shall be sent to the county board and the~~  
258 ~~county executive when so directed by the committee. The report shall describe~~  
259 ~~the status and progress of programs established pursuant to this section and~~  
260 ~~shall set forth the recommendations of the committee for improvements in the~~  
261 ~~management of county records including benefit quantification of such~~  
262 ~~recommendations.~~  
263

264 ~~(12) *Statistical reports and summaries provided to individuals and groups not a*~~  
265 ~~*part of county government.*~~  
266

267 ~~(a) *Statistical reports and summaries of county records may be provided to*~~  
268 ~~*individuals and groups not a part of county government, provided that:*~~

269 ~~(1) *Release of such information is not prohibited under any state statute or*~~  
270 ~~*county ordinance,*~~  
271

272 ~~(2) *Approval is given for release of such information by the head of the unit*~~  
273 ~~*responsible for the maintenance of records to be used in preparation of the*~~  
274 ~~*summary or report, and,*~~

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~~(3) Approval for the preparation of the report is given by the department of administration, if required under subsection (b)(2) hereof.~~

~~(b) A preparation processing charge shall be made to the individual or group requesting the summary or report. Such charge shall be determined in the following manner:~~

~~(1) The unit head, with the assistance, if requested, of the data processing division of the department of administration, shall determine the cost involved in preparation, by consideration of the time, personnel, and equipment required for preparation of the summary or report.~~

~~(2) In the event the estimated cost of such summary or report exceeds fifty dollars (\$50.00) and requires the use of the county's data processing systems or of time of employes of the department of administration, the approval of said department shall be obtained before preparation of the report. In granting its approval the department of administration shall determine a priority schedule for the retrieval of the requested information, to prevent interference with the department's customary processing of county records.~~

~~(c) This section shall not apply to any summaries or reports which the county is required to furnish free of charge under the provisions of any federal or state statute.~~

**SECTION 4.** Section 56.29 of the Milwaukee County Code of General Ordinances is hereby amended as follows:

**56.29. - Access to public records.**

*(1) Definitions.*

(a) "Authority" means any of the following having custody of a record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(b) "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, optical discs, and any other medium on which electronically generated or stored data is recorded or preserved. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the

321 originator's personal use or prepared by the originator in the name of a person for  
322 whom the originator is working; materials which are purely the personal property of  
323 the custodian and have no relation to his/her office; materials to which access is  
324 limited by copyright, patent or bequest; and published materials in the possession of  
325  
326 an authority other than a public library which are available for sale, or which are  
327 available for inspection at a public library.

328  
329 (2) *Legal custodians.*

330  
331 (a) Every department head of every unit of county government, including all boards  
332 and commissions, is the legal custodian of his/her records and the records of his/her  
333 office, but the official may designate an employee of his/her staff to act as the legal  
334 custodian.

335  
336 (b) Each legal custodian shall name a person to act as legal custodian in his/her  
337 absence or the absence of his/her designate. This subsection does not apply to  
338 members of the county board.

339  
340 (c) The designation of a legal custodian does not affect the powers and duties of the  
341 county clerk and county government under other statutes and ordinances,  
342 notwithstanding the provisions of § 19.21 et seq., Wis. Stats.

343  
344 (3) *Procedural information.* Pursuant to § 19.34, Wis. Stats., and the guidelines therein  
345 listed, the county clerk shall adopt, prominently display and make available for  
346 inspection and copying at its offices for the guidance of the public, a notice  
347 containing a description of the county organization and the established times and  
348 places at which each legal custodian from whom and the methods whereby, the  
349 public may obtain information and access to records in its custody, make requests  
350 for records, or obtain copies of records, and the cost thereof. Each legal custodian  
351 shall similarly adopt and display a notice reciting the time and places for inspection  
352 and costs involved in obtaining copies. The county clerk shall also prominently  
353 display at its offices, for the guidance of the public, a copy of §§ 19.31—19.39, Wis.  
354 Stats. This section does not apply to members of the county board.

355  
356 (4) *Access to records; fees.*

357  
358 (a) The rights of any person who requests inspection or copies of a record are  
359 governed by the provisions and guidelines of s. 19.35(1), Wis. Stats.

360  
361 (b) Each authority and/or legal custodian shall provide any person who is authorized  
362 to inspect or copy a record which appears in written form pursuant to s. 19.35(1)(b),  
363 Wis. Stats. or any person who is authorized to and requests permission to  
364 photograph a record the form of which does not permit copying pursuant to s.  
365 19.35(1)(f), Wis. Stats., with facilities comparable to those used by its employees to  
366 inspect, copy, and abstract the record during established office hours. An authority



367 and/or legal custodian is not required by this subsection to purchase or lease  
368 photocopying, duplicating, photographic, or other equipment or to provide a separate  
369 room for the inspection, copying or abstracting of records.

370  
371 (c) 1. Each authority and/or legal custodian shall impose a fee upon the requester of  
372 a copy of a record which may not exceed the actual, necessary and direct cost  
373 of reproduction and transcription of the record, unless a fee is otherwise  
374 specifically established or authorized to be established by the law. For the  
375 purpose of implementing and collecting the actual, necessary and direct cost  
376 of reproduction and transcription of a record a uniform fee is established in an  
377 amount of fifteen cents (\$0.15) for each page of letter size or legal size  
378 documents except that when any statute, ordinance or resolution provides for  
379 a different fee, such fee shall be observed and collected.

380  
381 2. Each authority and/or legal custodian shall impose a fee upon the requester of  
382 a copy of a record for the actual, necessary and direct cost of photographing  
383 and photographic processing if the authority and/or legal custodian provides a  
384 photograph of a record, the form of which does not permit copying.

385  
386 3. Except as otherwise provided by law or as authorized to be prescribed by law,  
387 an authority and/or legal custodian shall impose a fee upon a requester for  
388 locating a record, not exceeding the actual necessary and direct cost of  
389 location, if the cost is fifty dollars (\$50.00) or more.

390  
391 4. Each authority and/or legal custodian shall impose a fee upon a requester for  
392 the actual, necessary and direct cost of mailing or shipping of any copy or  
393 photograph of a record which is mailed or shipped to the requester.

394  
395 5. An authority and/or legal custodian may provide copies of a record without  
396 charge or at a reduced charge where the authority determines that waiver or  
397 reduction of the fee is in the public interest.

398  
399 6. Each authority and/or legal custodian shall require prepayment by a requester  
400 of any fee(s) imposed under this subsection if the total amount exceeds five  
401 dollars (\$5.00).

402  
403 (d) Each authority and/or legal custodian in acting upon a request for any record  
404 shall respond within the times and according to the procedures set out in s. 19.35(4),  
405 Wis. Stats.

406  
407 (5) *Separation of information.* If a record contains information that may be made public  
408 and information that may not be made public, the authority and/or legal custodian  
409 having custody of the record shall provide the information that may be made public  
410 and delete the information that may not be made public from the record before  
411 release. Each authority and/or legal custodian shall consult with the county  
412 corporation counsel before releasing any information under this subsection.

413 Notwithstanding the foregoing, records of the following personnel matters are  
414 generally not public and should not be disclosed to the public without prior  
415 consultation with the corporation counsel:

- 416
- 417 (a) Evaluations of applicants.
- 418
- 419 (b) Names of applicants other than those certified for employment.
- 420
- 421 (c) Pay survey data obtained from identifiable nonpublic employers.
- 422
- 423 (d) Names of nonpublic employers contributing pay survey data.
- 424
- 425 (e) Performance evaluations of individual employees.
- 426

427 In addition, all patient health care records shall remain confidential and are  
428 nonpublic, and may be released only to persons in accordance with the provisions of  
429 ss. 146.82 and 905.04, Wis. Stats.

430

431 **(6) Statistical reports and summaries provided to individuals and groups not a**  
432 **part of county government.**

433 **(a) Statistical reports and summaries of county records may be provided to**  
434 **individuals and groups not a part of county government, provided that:**

- 435 **(1) Release of such information is not prohibited under any state statute or**  
436 **county ordinance,**
- 437 **(2) Approval is given for release of such information by the head of the unit**  
438 **responsible for the maintenance of records to be used in preparation of the**  
439 **summary or report, and,**
- 440 **(3) Approval for the preparation of the report is given by the department of**  
441 **administration, if required under subsection (b)(2) hereof.**

442

443 **(b) A preparation processing charge shall be made to the individual or group**  
444 **requesting the summary or report. Such charge shall be determined in the**  
445 **following manner:**

- 446
- 447 **(1) The unit head, with the assistance, if requested, of the data processing**  
448 **division of the department of administration, shall determine the cost**  
449 **involved in preparation, by consideration of the time, personnel, and**  
450 **equipment required for preparation of the summary or report.**
- 451
- 452 **(2) In the event the estimated cost of such summary or report exceeds fifty**  
453 **dollars (\$50.00) and requires the use of the county's data processing**  
454 **systems or the time of of the department of administration employees, the**  
455 **approval of said department shall be obtained before preparation of the**  
456 **report. In granting its approval the department of administration shall**  
457 **determine a priority schedule for the retrieval of the requested information,**

458 to prevent interference with the department's customary processing of  
459 county records.

460  
461 (c) This section shall not apply to any summaries or reports which the county  
462 is required to furnish free of charge under the provisions of any federal or  
463 state statute.

464  
465 **SECTION 5.** The provisions of this Ordinance shall become effective upon passage and  
466 publication.

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469 ars  
470 10/29/21  
471 S:\Committees\2021\Oct\JSGS Special Meeting October 29\Resolution\21-793 Revised Record record retention and  
472 disposition ordinance.docx