



Our Vision

Red Wing thrives as a vibrant, creative river town that values its natural environment, welcomes all people, and unlocks opportunity for everyone.

Our Mission

We strive to create a sustainable, healthy, accessible, resilient, and equitable community where every person feels at home.

Meeting Announcement and Agenda Charter Commission Regular Meeting City Council Chambers, 315 West 4th Street, Red Wing, MN & Virtually Wednesday, June 26, 2024, at 6:00 PM

This meeting will be held in the City Hall Council Chambers and virtually via Webex at the same time. Members of the public can join this meeting either in person at City Hall or virtually. To join this meeting via Webex, [click this link](#). To join via telephone, please dial (415) 655-0001. Enter access code 2555 394 9029 and password 2024 when prompted.

The purpose of the Charter Commission is to consider and recommend amendments, revisions and restatements to the Charter of the City of Red Wing and to perform such other duties as required in accordance with the Constitution and Laws of the State of Minnesota, and Bylaws and rules of the Charter Commission.

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Introduce New Charter Commissioners John Guerber, Ann Vogel, Thomas Drazkowski, Anne Robertson, Charles Richardson and Alan Quarnstrom**
- 4. Motion to Excuse Absent Commission Members**
- 5. Approval of Agenda**
- 6. Approval of Minutes**
 - 6.A. Motion to Approve June 21, 2023, Minutes.
- 7. Election of Chairperson and Vice Chairperson**

Chairperson Terri Cook to ask for nominations (does not need motion or a second) for Chairperson. Following nominations, Staff Liaison Teri Swanson will announce nominations and ask for a roll call vote. The newly elected Chairperson will ask for nominations (does not need a motion or a second) for Vice Chairperson. Following nominations, Staff Liaison Teri Swanson will announce nominations and ask for a roll call vote.
- 8. Public Comment**

Public comments at a special meeting shall be limited to topics on the agenda.

9. Motions & General Business

9.A. Consider Motion to Recommend to the Chief Judge of the First Judicial District the Reappointment of Min MartinOakes to a Second Term on the Charter Commission. Commissioner MartinOakes has indicated she is interested in serving another term on the Charter Commission. The Charter Commission is asked to consider recommending the reappointment of Min MartinOakes to a second term on the Charter Commission. A recommendation can be done by a motion and a second followed by a voice vote. Once approved, an Order will be forwarded to the Chief Judge of the First Judicial District for reappointment.

9.B. Consider Motion to Approve the 2023 Charter Commission Annual Report. Attached is the annual report. The Charter Commission is asked to review and approve the 2023 Annual Report. Approval of the annual report can be done by a motion and a second followed by a voice vote. Once approved, the report will be forwarded to the District Court and the City Council.

9.C. Discuss and Consider Motion to Recommend to the City Council a Red Wing City Charter Amendment to Section 5.07 Procedure on Ordinances.

At the May 13, 2024, City Council meeting, a motion was approved to request the Charter Commission review City Charter Section 5.07 Procedure on Ordinances for a possible language change to eliminate the second reading of ordinances. City Council discussed meeting efficiencies at day two of their annual meeting. One suggestion brought forward by staff was to eliminate the second reading of ordinances. Staff did research and found that some cities do not require two readings of ordinances. Eliminating the second reading of ordinances would save the city council and staff processing time by not having to bring them forward a second time. Eliminating the second reading would also cause the publishing of ordinances to be quicker, and the effective date of the ordinance would occur earlier. The proposed language change is below. A recommendation can be made by a motion and a second followed by a voice vote.

Section 5.07 Procedure on Ordinances.

The enacting clause of all ordinances shall be the words, "The City Council of the City of Red Wing does ordain". Every ordinance shall be presented in writing and shall embrace a single subject, which shall be expressed in the title. ~~No ordinance, except an emergency ordinance, shall be adopted on the same day it was introduced and at least three days shall pass between its introduction and passage. No ordinance shall require more than one reading and all ordinances shall be adopted by a majority vote of Council Members present at the council meeting, unless a different number of votes is required by law.~~

9.D. Consider Motion to Adopt City of Red Wing Data Practices Procedures and Data Inventory Public Document as the Official Data Practices Policy of the Charter Commission.

This policy and information document is approved annually and is intended to provide direction and procedures for access to and/or copies of government data maintained or collected by the City of Red Wing and Charter Commission. City Council approved the attached Data Practices Procedures and Data Inventory document on April 22, 2024, with the changes highlighted in yellow. Adopting of the policy can be done by a motion and a second followed by a voice vote.

9.E. Review Legislative Changes that Affect the Charter Commissions.
In reviewing the charter law (Minnesota Statutes chapter 410), the Minnesota

Government Data Practices Act (chapter 13), the Open Meeting Law (chapter 13D), election laws, and election rules, the City Attorney's office has not identified any changes from the 2024 legislative session that would impact the Charter Commission. **No presentation or action is needed.**

9.F. Annual Materials.

The attached materials are provided for your information. **No action is needed.**

1. City Attorney Material - Legal Considerations for City Officials
2. Code of Conduct
3. Board and Commission Policy

9.G. Consider Motion to Adopt the Charter Commission Regular Meeting Schedule.

Per MN Statutes 410.05 the Charter Commission shall meet at least once during each calendar year. In 2021, the Charter Commission established the third Wednesday in June of each year to be the regular meeting of the Charter Commission. Chairperson Cook has asked that the Charter Commission consider approving the following 2025 meeting schedule, including the third Wednesday of March as a regular meeting, if needed. Adopting the regular meeting schedule can be done by a motion and a second followed by a voice vote.

- The Third Wednesday in March, if needed.
- The Third Wednesday in June, per Charter Commission Bylaws.

10. Adjournment

Attachments

- A. [Charter Commission Bylaws](#)
[Charter Commission Member Roster](#)

Accommodations for signing interpreter, Braille, large print, etc. can be made. Call City Hall at 385.3600 seven days prior to the need. Hearing assistance devices are available during meetings.

**Red Wing Charter Commission
Regular Meeting
City Council Chambers
June 21, 2023**

Members Present: Chairperson Terri Cook; Commissioners Randy McLaughlin, Carol Overland, Peggy Rehder, Min MartinOakes, Michael Johnson, Terese Bjornstad, and Chad Kono

Members Absent: Commissioners Ryan Hanson and Mallory West

Others Present: Teri Swanson, City Clerk / Staff Liaison; Kay Kuhlmann, Council Administrator; Becky Norton, Council Liaison; Kristin Nierengarten, Charter Commission Attorney; Incoming Commissioners John Guerber, Anne Robertson, and Ann Vogel

1. Call to Order

The meeting was called to order at 6:00 p.m. by Chairperson Cook.

2. Pledge of Allegiance

3. Motion to Excuse Absent Commission Members

A motion was made by Commissioner Bjornstad, seconded by Commissioner Overland and unanimously carried, to excuse the absences of Commissioners Hanson and West.

4. Approval of Agenda

A motion was made by Commissioner McLaughlin, seconded by Commissioner Overland and unanimously carried, to approve the agenda as presented.

5. Swearing In of Charter Commission Members

- 1) Carol Overland to a Second Four-Year Term.**
- 2) Chad Kono to a First Four-Year Term.**
- 3) John Guerber for a First Four-Year Term.**
- 4) Anne Robertson to a First Four-Year Term.**
- 5) Ann Vogel to a First Four-Year Term.**

Council Liaison Norton administered the Oath of Office for Commissioners Overland, Kono, Guerber, Robertson, and Vogel. Chairperson Cook and City Clerk Swanson reviewed the appointment and seating process for Charter Commission members. It was noted that the terms of Commissioners Guerber, Robertson, and Vogel will officially begin the day that the paperwork is filed with the District Court.

6. Approval of Minutes

- A. Motion to Approve April 26, 2023, Minutes.**

A motion was made by Commissioner Bjornstad, seconded by Commissioner Johnson and unanimously carried, to approve the meeting minutes as drafted.

7. Election of Chairperson and Vice Chairperson

Nominations were opened for the position of Chairperson. Commissioner MartinOakes nominated Commissioner Cook to serve as Chairperson. The nomination was seconded by Commissioner Overland. There were no other nominations. A roll call vote was conducted, and Commissioner Cook was unanimously elected to serve as Chairperson of the Charter Commission.

Nominations were opened for the position of Vice Chairperson. Commissioner Johnson nominated Commissioner MartinOakes to serve as Vice Chairperson. The nomination was seconded by Commissioner Kono. There were no other nominations. A roll call vote was conducted, and Commissioner MartinOakes was unanimously elected to serve as Vice Chairperson of the Charter Commission.

8. Public Comment Period

Chairperson Cook reviewed the public comment procedure. There was no public comment.

9. Motions and General Business

A. Consider Motion to Approve the 2022 Charter Commission Annual Report.

A motion was made by Commissioner McLaughlin, seconded by Commissioner Johnson and unanimously carried, to approve the 2022 Charter Commission Annual Report as presented.

B. Discuss and Consider a Motion to Recommend to the City Council a Red Wing City Charter Amendment.

Chairperson Cook provided background information. She summarized past Charter Commission discussion and action regarding potential amendments to the City Charter – including Chapter 5, Section 5.03, relating to Council meetings, and Section 5.05, relating to records. She stated that introduction of Ordinance No. 167, Fourth Series, was placed on the City Council meeting agenda for consideration on October 25, 2021. She noted that, due to a leave of absence of one of the Council Members, an affirmative vote of all Council Members was not possible, as required by State statute. She noted that an affirmative vote of the six Council Members in attendance complied with the statute requiring the Council to conduct a vote regarding the proposed Charter amendment. She reported that a motion to introduce Ordinance No. 167 failed.

Chairperson Cook stated that, now that a full City Council is seated, the Charter Commission is being asked to consider resubmitting the proposed Charter amendment to the City Council for consideration at this time, using the same documentation. She referenced the agenda materials.

A motion was made by Commissioner Overland that the Charter Commission recommend that the City Council consider an amendment to the City Charter. The motion was seconded by Commissioner Johnson.

Commissioner Overland referenced pages 11 and 12 of the agenda materials relating to this item. She provided additional background information, rationale, and sample policy language relating to the proposed Charter amendment.

“The Council shall operate with the understanding that public comment is to be encouraged.”

Commissioner Overland provided additional recommendations relating to the publication of records.

Commissioner Johnson asked whether City boards, commissions, and committees would be able to determine whether or not to adopt this policy. Commissioner Overland commented that the Charter Commission could recommend a separate Charter amendment that would pertain to City boards, commissions, and committees.

Commissioner McLaughlin stated his impression that there would not be unanimous support for the proposed Charter amendment by current Council Members. He commented that another option would be to place the proposed Charter amendment on the ballot and let the voters decide during the next general election.

Chairperson Cook commented that some of the recommended policies have been incorporated into the Rules of Order and Procedure. She asked Charter Commission members to consider whether this would be a valid measure at this time.

Commissioner Overland stated her opinion that there would be no harm in requesting that the Council consider the Charter amendment at this time, adding that the ballot option would still be available if the Council does not vote to approve the Charter amendment. Commissioner MartinOakes expressed agreement with this approach, adding that this might help generate public discussion. Commissioner Bjornstad stated the Charter Commission’s original intent for this to be voted on by the City Council, which was not possible in 2021. She recommended following through with this intention.

Commissioner Overland called the question at this point. A roll call vote was requested. Upon call of the roll, Commissioners Johnson, Kono, MartinOakes, McLaughlin, Overland, Bjornstad, and Cook voted aye; Commissioner Rehder voted nay. Seven ayes; one nay; motion carried.

C. Review Legislative Changes that Affect the Charter Commission’s Attorney Kristen Nierengarten to Review Legislation, if any.

Charter Commission Attorney Nierengarten provided a legislative update. She stated that, while a number of changes were made during the most recent legislative session, there were no laws impacting the Charter Commission or the City Charter. She stated that changes to election laws were compared with the City Charter language, and no adjustments were deemed necessary at this point. She noted that the new laws will continue to be analyzed and impacts monitored.

Attorney Nierengarten noted that a change was made to the Open Meeting Law. She stated that a provision had previously been added to allow remote participation by a member of a public body in a closed (non-public) location, relating to pandemic circumstances. She noted that the language requiring the remote participation to relate to pandemic circumstances has been removed. She stated that the law now allows a member of a public body to participate remotely if they have been advised by a healthcare professional against being in a public place for a personal or family medical reason. She added that remote participation can be allowed for up to three meetings per year. She noted that there is existing language relating to active military service.

Commissioners Overland and Rehder requested clarification of Open Meeting Law language relating to remote participation in a location that is open to the public. Attorney Nierengarten provided additional information in this regard.

D. Annual Materials.

- 1) **City Attorney Material.**
- 2) **Code of Conduct (currently being revised).**
- 3) **Board and Commission Policy (current being revised).**

Chairperson Cook referenced the materials. No action was needed.

E. Consider Motion to Adopt the Charter Commission Regular Meeting Schedule.

Chairperson Cook stated that the Charter Commission previously voted to establish the third Wednesday in June as the date of the required regular meeting of the Charter Commission. Chairperson Cook asked the Charter Commission to consider scheduling the third Wednesday in March as a regular meeting, if needed, in addition to the third Wednesday in June.

Commissioner Overland suggested scheduling a regular meeting prior to the November 2024 election, in the event that a proposed Charter amendment is placed on the ballot. City Clerk Swanson indicated that she would need to research the timeframe for this process. She added that a special meeting could be called for this purpose.

The proposed 2024 regular meeting schedule was clarified. Chairperson Cook provided rationale for the proposed meeting in March, if needed.

A motion was made by Commissioner MartinOakes, seconded by Commissioner Overland and unanimously carried, to approve the 2024 Charter Commission meeting schedule as discussed.

10. Adjournment

Chairperson Cook adjourned the meeting at 6:31 p.m.

Red Wing Charter Commission -

2023 Annual Report

The Charter Commission met twice in 2023. On April 23, 2023, the commission made recommendations for appointments and reappointments to the Chief Judge of the First Judicial District to fill vacancies. Due to a vacancy, election of a chairperson was required prior to conducting business. Terri Cook was elected Chairperson.

The following recommendations were sent to the Chief Judge of the First Judicial District: Chad Kono and Anne Robertson both for first full terms, Carol Overland for a second full and Charles Richardson for the partial term to fill the vacancy by Commissioner Greg Bolt.

The second meeting was the Annual Meeting held June 21, 2023. At this meeting Acting Council liaison Becky Norton administered the acceptance and oaths of office to new Commission Members in attendance. Sworn in were:

Carol Overland for a Second Four-Year Term

Chad Kono, Anne Robertson, Ann Vogel and John Grueber – all for First Four-Year Terms

Also at the June 2023 meeting, The Charter Commission finalized a recommendation of a City Charter Amendment. The amendment, centering around Chapter 5, Section 5.03, addresses public comment at all city meetings. Section 5.05, relates to records. When first proposed in 2021, due to absences at the Council meeting the amendments could not be approved. It was decided to present the amendments to the City Council once again.

Attorney Nierengarten gave an update on the Open Meeting Law as it relates to remote participation for a personal or family medical reason.

The Charter Commission adopted City of Red Wing Data Practices Procedures and Data Inventory Public Document as the official Data Practices Policy of the Charter Commission.

The Charter Commission adopted the following Regular Meeting Schedule:

Annual Meeting third Wednesday in June.

Third Wednesday in March (if needed)



CITY COUNCIL AGENDA REPORT

TO: City Council Members and Mayor
FROM: Teri Swanson, City Clerk
Agenda Item No.: Motion to Approve Data Practices Procedures and Data Inventory
Meeting Date: April 22, 2024

ACTION REQUESTED:

Motion to Approve Data Practices Procedures and Data Inventory

ATTACHMENTS:

- Data Practices Procedures and Data Inventory (revisions highlighted in yellow)

BACKGROUND:

These procedures are adopted to comply with the requirements of the Minnesota Data Practices Act, specifically Minnesota Statutes Section 13.025, 13.03 Subd. 2, and 13.05, Subd. 5. The City is required to update its Data Practices Procedures and Data Inventory annually. This policy and document is intended to provide direction and procedures for access to and/or copies of government data maintained or collected by the City of Red Wing. Having written procedures ensures that requests for government data are received and responded to promptly and appropriately.

DISCUSSION:

The Data Practices Procedures and Data Inventory was presented to the City's Department/Division Head Team for feedback where there were a few minor changes.

City Attorney Michael Ervin reviewed the Data Practices and Procedures document to see if any changes were needed based on changes to the Data Practices Act in the past year. The basis for the various changes being proposed is outlined below.

City Attorney Proposed Changes

- Section VII (Page 5): The Legislature made minor changes to the procedures for contesting the completeness and accuracy of data maintained by the City. See Minn. Stat. § 13.04, subd. 4. Specifically, the Legislature clarified that individuals can contest the completeness and accuracy of data only if they are the data subject. The law also establishes a 60 day deadline to appeal if the individual disagrees with the Responsible Authority's decision on a challenge to the completeness and accuracy of data. The section with my proposed revisions aligns with the legal changes.
- Inventory—Personnel Data (Page 19-20): The Legislature amended the law regarding access to personnel data by Unions and the Minnesota Public Employment Relations Board (which hears disputes on unfair labor practices). See Minn. Stat. § 13.43, subd. 6. Personnel data now must be disseminated to those entities to the extent necessary to

conduct elections; investigate and process grievances; implement the provisions of the Public Employment Labor Relations Act; and provide basic contact information to the exclusive representative for the employee's Union so that they can contact members. I added language to the data inventory to reflect the fact that this data will be shared with these entities.

- Inventory—Portable Recording System Data (Page 20-22) and Exhibit F-1 (Page 32): The Legislature amended the law regarding access to body cam data. See Minn. Stat. § 13.825, subd. 2. When an individual dies as a result of a use of force by a police officer, the City must allow the deceased individual's next of kin, legal representatives of the next of kin, and other parent of the deceased individual's child to inspect body cam data within five days of the request. The body cam data becomes public to others no later than 14 days after the incident. The City may deny a request to inspect the data if it determines there is a compelling reason as to why inspection would interfere with an active investigation. If access is denied, the Police Chief must provide a prompt, written denial with a short description of the compelling reason access was denied and provide notice that relief may be sought from the district court. The Legislature also changed the law to require that data that document a peace officer's use of deadly force must be maintained indefinitely. I added language to the inventory and modified the request form to reflect these legal changes.
- Inventory—Political Subdivision Licensing Data (Page 23): The Legislature added a new section regarding data obtained by municipalities in connection with licensing applications. See Minn. Stat. § 13.204. Specifically, tax returns and bank statements provided with licensing applications are private or nonpublic data. Additionally, the law mandates that data collected under this statute must be destroyed no later than 90 days after a final decision on the license application. I added a section on this type of data to the inventory, so that it is in the inventory in the event the City currently has that data or may in the future collect this type of data. NOTE: If the City currently maintains any tax returns or bank statements that were part of a licensing application, those should be destroyed if more than 90 days has passed since the decision on the license.
- Inventory—Transportation Services Data (Page 24): The Legislature added some language related to transportation services data. See Minn. Stat. § 13.72, subd. 19. Specifically, data obtained by a municipality on its own or through a third-party vendor for the purposes of booking and using public transit services is private data. Given that the inventory indicates the City is collecting data for the purpose of coordinating transportation services, we assume that the City may also be collecting the type of data now identified in Minn. Stat. § 13.72, subd. 19, and thus have added this to the definition in the inventory.

FINANCIAL PLAN AND IMPACT: None

ALTERNATIVES:

1. Motion to approve Data Practices Procedures and Data Inventory.
2. Refer back to staff with direction on changes.
3. Not approve.

RECOMMENDATION:

Council is asked to approve the Data Practices Procedures and Data Inventory.

**CITY OF RED WING
DATA PRACTICES PROCEDURES
PUBLIC DOCUMENT**

- I. **Introduction.** These procedures are adopted to comply with the requirements of the Minnesota Data Practices Act (the “Act”), specifically Minnesota Statutes Section 13.025, 13.03, Subd. 2, and 13.05, Subd. 5.

- II. **Responsible Authority.** The City Council has appointed Teri L. Swanson, City Clerk, as the person who is the Responsible Authority for compliance with the Act. She has appointed **Jewel Thurman Alex Saxe**, Human Resource Manager; Sandy Gernentz, Fire Department Office Clerk/Receptionist; Amy Smith, Library Administrative Assistant; Janelle Ahern, Police Department Administrative Secretary; Frank Peterson, Building Inspector; Jeff Krueger, IT Manager; Laura Blair, Administrative Services Director; and **Melissa Baartman, Public Works Process Manager Tammie Dougherty, Public Works Office Manager**, as designee to assist in complying with the Act. All requests for data should be directed to the Responsible Authority or designee.

- III. **Access to Public Data.** All information maintained by the City is public unless there is a specific statutory designation that gives it a different classification.
 - A. **People entitled to Access.** Any person has the right to inspect and copy public data. The person also has the right to have an explanation of the meaning of the data. The person does not need to state his or her name or give the reason for the request.

 - B. **Form of Request.** The request for public data must be made in writing and may be made by mail, facsimile, or email. A request for information relating to litigation will be referred to the City Attorney.

 - C. **Time Limits.** Requests will be received and processed during normal business hours. If requests cannot be processed or copies cannot be made immediately at the time of the request, the request will be completed within a reasonable time.

 - D. **Fees.** Fees may be charged only if the requesting person asks for a copy or electronic transmittal of the data. Fees will be charged according to the City’s fee ordinance (Exhibit A) and as allowed under Minnesota Statutes Section 13.03. The fee may not include time necessary to separate public from nonpublic data.

The Responsible Authority may also charge an additional fee if the copies have commercial value and are a substantial and discrete portion of a formula, compilation, program, process, or system developed with significant expenditure of public funds. This additional fee must relate to the actual development costs of the information.

IV. Access to Data on Individuals. Information about individual people is classified by law as public, private, or confidential. A list of the private and confidential information maintained by the City is attached as Exhibit B.

A. People Entitled to Access.

- *Public* information about an individual may be shown or given to anyone.
- *Private* information about an individual may be shown or given to:
 - The individual, but only once every six months, unless a dispute has arisen or additional data has been collected.
 - A person who has been given access by the express written consent of the data subject. This consent must be on the form attached as Exhibit D, or a reasonably similar form.
 - People who are authorized access by the federal, state, or local law or court order.
 - People about whom the individual was advised at the time the data was collected. The identity of those people must be part of the *Tennessee* warning.
 - People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access to said information.
- *Confidential* information may **not** be given to the subject of the data, but may be shown or given to:
 - People who are authorized access by federal, state or local law or court order.
 - People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access to said information.

B. Form of Request. Any individual may request verbally or in writing whether the City has stored data about that individual and whether the data is classified as public, private, or confidential.

All requests to see or copy private or confidential information must be in writing. An Information Disclosure Request, attached as Exhibit E (Exhibit F for police data), must be completed to document who requests and who receives this information. The Responsible Authority or Designee must complete the relevant portions of the form. The Responsible Authority or Designee may waive the use of this form if there is other documentation of

the requesting party's identity, the information requested, and the City's response. A request for information relating to litigation will be referred to the City Attorney.

- C. Identification of Requesting Party.** The Responsible Authority or Designee must verify the identity of the requesting party as a person entitled to access. This can be done through personal knowledge, presentation of written identification, comparison of the data subject's signature on a consent form with the person's signature in City records, or other reasonable means.
- D. Time Limits.** Requests will be received and processed during normal business hours. If the requesting party is the subject of the data, the response must be immediate, if possible, or within 10 working days if an immediate response is not possible. If the requesting party is not the subject of the data, the response must be immediate, if possible, or as soon as reasonably possible.
- E. Fees.** Fees will be charged in accordance with the fee ordinance attached as Exhibit A and as allowed under Minnesota Statutes Section 13.04.
- F. Summary Data.** Summary data is statistical records and reports derived from data on individuals, but which does not identify an individual by name or any other private or confidential data. Unless classified by other statute or federal law, summary data is public. The Responsible Authority or Designee will prepare summary data upon request, if the request is in writing and the requesting party pays for the cost of preparation. The Responsible Authority or Designee must notify the requester of the anticipated time schedule and the reasons for any delay.

The Responsible Authority may ask an outside agency or person to prepare the summary data if (1) the specific purpose is given in writing, (2) the agency or person agrees not to disclose the private or confidential data, and (3) the Responsible Authority determines that access by this outside agency or person will not compromise the privacy of the private or confidential data. The Responsible Authority may use the form attached as Exhibit G.

- G. Minor Children's Records.** The following applies to *private* (not confidential) data about people under the age of 18.
 - **Parental Access.** In addition to the people listed above who may have access to private data, a parent may have access to private information about a minor child subject. "Parent" means the parent or legal guardian of a minor child data subject, or individual acting as a parent or legal guardian in the absence of a parent or legal guardian. The parent is presumed to have this right unless the Responsible Authority or Designee has been given evidence that there is a state law, court order, or other legally binding document that prohibits this right.

- **Notice to Minor.** Before requesting private data from minor children, city personnel must notify the minors that they may request that the information not be given to their parent(s). This notice should be in the form attached as Exhibit I.
- **Denial of Parental Access.** The Responsible Authority or Designee may deny parental access to private data when the minor requests this denial and the Responsible Authority or Designee determines that withholding the data would be in the best interest of the minor child. The request from the minor must be in writing stating the reasons for the request. In determining the best interest of the minor, the Responsible Authority or Designee will consider:
 - Whether the minor is of sufficient age and maturity to explain the reasons and understand the consequences.
 - Whether denying access may protect the minor from physical or emotional harm,
 - Whether there is reasonable grounds to support the minor's reasons, and
 - Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

The Responsible Authority or Designee may also deny parental access without a request from the minor under Minnesota Health Records Act.

The Responsible Authority or Designee will document the basis for its decision when it considers a minor's request to deny parental access to data.

- V. **Denial of Access.** If the Responsible Authority or Designee determines that the requested data is not accessible to the requesting party, the Responsible Authority or Designee must inform the requesting party verbally at the time of the request or in writing as soon after that as possible. When informing the requesting party, the Responsible Authority or Designee must cite the particular statute, temporary classification or federal law that forms the legal authority for the denial. The Responsible Authority or Designee must place an oral denial in writing upon request. This must also include the specific legal authority for the denial.
- VI. **Collection of Data on Individuals.** The collection and storage of information about individuals will be limited to that necessary for the administration and

management of programs specifically authorized by the state legislature, city council, or federal government.

When an individual is asked to supply private or confidential information about himself or herself, the City employee requesting the information must give the individual a *Tennessee* warning, see Exhibit C. This warning must contain the following:

- the purpose and intended use of the requested data;
- whether the individual may refuse or is legally required to supply the requested data;
- any known consequences from supplying or refusing to supply the information, and;
- the identity of other persons or entities authorized by state or federal law to receive the data.

A *Tennessee* warning is not required when an individual is requested to supply investigative data to a law enforcement officer.

A *Tennessee* warning is not required when an employee is requested to supply data to his/her employer and the data requested falls within the employee's scope of employment.

A *Tennessee* warning may be on a separate form or may be incorporated into the form that requests the private or confidential data.

VII. Challenge to Data Accuracy. An individual who is the subject of public or private data may contest the accuracy or completeness of **that data about themselves** maintained by the City. The individual must notify the City's Responsible Authority in writing describing the nature of the disagreement. Within 30 days, the Responsible Authority must respond in writing to the individual as to **his/her/their** determination. The determination must be that the data was inaccurate, incomplete, accurate, and/or complete. If inaccurate or incomplete, the Responsible Authority must correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual.

An individual who is dissatisfied with the Responsible Authority's determination may appeal to the Commissioner of the Minnesota Department of Administration, using the contested case procedures under Minnesota Statutes Chapter 14 and Minnesota Rules, part 1205.1600. **An individual must submit an appeal to the Commissioner within 60 days of the Responsible Authority's notice of the right to appeal or as otherwise provided by the rules of the Commissioner.** The Responsible Authority will correct any data if so ordered by the Commissioner or a court.

VIII. Data Protection

A. Accuracy and Currency of Data

- All employees will be requested to provide updated personal information to the appropriate supervisor and Human Resource Manager, which is necessary for tax, insurance, emergency notifications, and other personnel purposes. Other people who provide private or confidential information will also be encouraged to provide updated information when appropriate.
- Department heads should periodically review forms used to collect data on individuals to delete items that are not necessary and to clarify items that may be ambiguous.
- All records must be disposed of according to the City's General Records Retention Schedule.

B. Data Safeguards

- Private and confidential information will be stored in files or databases that are not accessible to individuals who do not have authorized access and which will be secured during hours when the offices are closed.
- Private and confidential data must be kept only in City **officesfacilities**, except when necessary for City business.
- Only those employees whose job responsibilities/descriptions require them to have access will be allowed access to files and records that contain private and confidential information. These employees may be identified in the following ways:
 - The City will identify employees who have access to not public data in its Data Inventory;
 - Position descriptions may identify not public data accessible to employees when a work assignment reasonably requires;
 - An employee may access certain not public data in the event of a temporary duty assigned by a manager or supervisor for as long as is required to complete the work; and
 - The Responsible Authority, Designees, City Council Administrator, and City Attorneys may have access to all not

public data maintained by the City as necessary to complete fulfill assigned duties and work.

- The employees authorized to access not public data will be instructed to:
 - not discuss, disclose or otherwise release private or confidential data to City employees whose job responsibilities do not require access to the data,
 - not leave private or confidential data where non-authorized individuals might see or gain access to it,
 - password protect computers and lock computers before leaving workstations, and
 - shred private or confidential data before discarding, or dispose through confidential waste incineration.
- When a contract with an outside party requires access to private or confidential information, the contracting party will be required to use and disseminate the information consistent with the Act. The City may include in a written contract the language contained in Exhibit H.
- Not public data may be shared with another entity if federal or state law allows or mandates it. Not public data may be shared to the extent necessary or required by the law.
- Unauthorized use or disclosure of private or confidential data may result in disciplinary action up to and including termination. A willful unauthorized use or disclosure of private or confidential data may result in other penalties as provided in Minnesota Statutes Section 13.09.

IX. Red Wing Library

- A. Patron Data Privacy.** The Red Wing Public Library (hereinafter “Library”) shall comply with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Section 13.40.

Library records that link a patron’s name with materials requested or borrowed by the patron or which links a patron’s name with a specific subject about which the patron has requested information or materials is classified as private (hereinafter referred to as “private library data”).

Data supplied by a user in applying for a library card, except for the name of the borrower, is also classified as private library data (Exhibit J).

Private library data is accessible only to the individual who is the subject of that data. In the case of a minor (under 18) or a person adjudged mentally incompetent, "individual" includes a parent or guardian, or an individual acting as a parent or guardian in the absence of a parent or guardian. Release of private library data to the individual requires that the individual possess the individual's library card, or other form of identification.

However, the Library shall withhold private library data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request of the minor, if the Library determines that withholding the data is in the best interest of the minor. In that case, the minor and authorized staff person of the Library shall complete and sign a Data Privacy Withholding Request Form (Exhibit K).

With regard to incoming and outgoing telephone calls and overdue notices, the Library staff must take appropriate steps to identify the individual patron prior to giving out information considered to be private library data.

B. Standards and Guidelines for Automated Library Systems (Exhibit L).

Exhibit A

REQUEST FOR PUBLIC DATA

Person Requesting Copy of Public Government Data	Data to be Copied: #, size, and color	Copying Fee	Postage
Subject of data	Any document, compact disc, audio tape, videotape, etc., that identifies the requestor; copies not limited in number, size or color.	Limited to the actual cost of making and certifying copies only. <u>Ambulance Run Report</u> : No Charge to patient involved. <u>Fire Incident Report</u> : No charge to person/owner involved. <u>Police Accident Report</u> : No charge to driver/passenger involved.	No Charge
Any other person who is not the subject of data	100 or fewer copies of documents that are letter or legal size and black and white.	No charge for 10 pages or less. Over 10 pages, \$0.25 per page.	No Charge
Any other person who is not the subject of data	More than 100 copies, odd-sized or color copies, regardless of the number, size or color. Copies of data stored electronically, compact discs, audio tapes, videotapes, etc.	Actual cost of searching for and retrieving documents, discs, tapes, etc., including cost of employee time, and for making and certifying (and electronically transmitting).	Actual Cost
Channel 6 Program Copies	City meetings, city sponsored speaker events, election candidate forums, etc.	\$10.00 for each program copied onto a DVD. Copies will be ready for pick up two business days following a request.	Actual Cost
Domestic Abuse Victim	Written police reports, calls for service, arrest data, or response or incident data that arise out of the domestic abuse incident; not limited in number, size or color.	No charge applies pursuant to Minn. Stat. §629.341	No Charge

EXHIBIT B

CITY OF RED WING DATA INVENTORY

Responsible Authority is:
Teri L. Swanson, City Clerk
315 West 4th Street
Red Wing, MN 55066
Teri.Swanson@ci.red-wing.mn.us
651-385-3615

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
Absentee Ballots	Sealed absentee ballots before opening by an election judge.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.37	Certain employees on an as needed basis as part of specific work assignment.
Ambulance Reports (also called Prehospital Care Data)	Data collected by ambulance service personnel about the circumstances related to an emergency response and patient care activities provided by the ambulance service personnel in a prehospital setting.	Private	MS 13.381; MS 144E.123	Fire Chief, Assistant Chief, Office Clerk, Fire Marshal
Applicants for Appointment	Data about applicants for appointment to a public body collected by the City as a result of the applicant's application for appointment to the public body are private data on individuals except that the following are public: name; city of residence, except when the appointment has a residency requirement that requires the entire address to be public; education and training; employment history; volunteer work; awards and honors; prior government service; and veteran status. Once an individual is appointed to a public body, the following	Private	MS 13.601	Certain employees on an as needed basis as part of specific work assignment.

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	<p>are public: residential address; and either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee, first and last dates of service on the public body, the existence or status of any complaints or charges against an appointee. Upon completion of an investigation of a complaint or charge, the final investigative report is public, unless access to the data would jeopardize an active investigation.</p>			
Appraisal Data	<p>Appraised values of individual parcels of real property, made by appraisers working for fee owners or contract purchasers who have received an offer to purchase their property from the City, are private.</p> <p>Estimated or appraised values of individual parcels of real property that are made by City personnel or by independent appraisers acting for the City for the purpose of selling or acquiring land through purchase or condemnation are confidential.</p> <p>Such data become public if: (1) the data are submitted to a court-appointed condemnation commissioner; (2) the data are presented in court in condemnation proceedings; (3) the negotiating parties enter into an agreement for the purchase and sale of the property; or (4) at the discretion of the City, a majority of the Council votes to make it public.</p>	<p>Confidential/ Private with regard to data on individuals/ Nonpublic with regard to data not on individuals</p>	MS 13.44, subd. 3	<p>Certain employees on an as needed basis as part of specific work assignment.</p>

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
Assessor's Data	<p>Data contained on sales sheets received from private multiple listing service organizations where the contract with the organizations requires the political subdivision to refrain from making the data available to the public.</p> <p>Income information on individuals used to determine eligibility of property for class 4d under sections 273.128 and 273.13.</p> <p>The following data regarding income properties:</p> <ul style="list-style-type: none"> • income and expense figures • average vacancy factors • net rentable or useable areas, • anticipated income and expenses for current year, • projected vacancy factor for current year, and • lease information. 	Private	MS 13.51	Certain employees on an as needed basis as part of specific work assignment.
Award Data	Financial data on business entities submitted to the City for the purpose of presenting awards to business entities for achievements in business development or performance are private data on individuals or nonpublic data.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.48	Certain employees on an as needed basis as part of specific work assignment.
Benefit Data HRA	All data about individuals participating in the City's housing rehabilitation program, Section 8 rental assistance program or other housing assistance program are private, except that the names and addresses of applicants for and recipients of benefits, aid, or assistance through programs administered through the City that are intended to assist with the purchase of housing or other	Private	MS 13.462	Certain employees on an as needed basis as part of specific work assignment.

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	real property are public.			
Business Data	The following data, that are submitted to the City by a business requesting financial assistance or a benefit financed by public funds, are private or nonpublic data: financial information about the business, including credit reports; financial statements; net worth calculations; business plans; income and expense projections; balance sheets; customer lists; income tax returns; and design, market, and feasibility studies not paid for with public funds. Data submitted become public when public financial assistance is provided or the business receives a benefit from the City, except that the following data remain private or nonpublic: business plans; income and expense projections not related to the financial assistance provided; customer lists; income tax returns; and design, market, and feasibility studies not paid for with public funds.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.591	Certain employees on an as needed basis as part of specific work assignment.
City Attorney Records	The use, collection, storage, and dissemination of data by the city attorney are governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility. Data that is the subject of attorney-client privilege is confidential. Data that is the subject of the "work product" privilege is confidential.	Confidential	MS 13.393	Certain employees on an as needed basis as part of specific work assignment.
Civil Investigative Data	Data collected as part of an active investigation undertaken to commence or defend pending civil litigation, or which are	Confidential, Private	MS 13.39	Certain employees on an as needed basis as part of

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	retained in anticipation of pending civil litigation is confidential, except that a complainant's statement is private.			specific work assignment.
Computer Data	Data created, collected, or maintained about a person's access to the City's computer for the purpose of: gaining access to data or information; transferring data or information; or using government services, are private data.	Private	MS 13.15	Certain employees on an as needed basis as part of specific work assignment.
Data on Decedents	<p>Data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as confidential data, are confidential data on decedents.</p> <p>Data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as private data, are private data on decedents.</p>	Confidential, Private	MS 13.10	Certain employees on an as needed basis as part of specific work assignment.
Domestic Abuse Data	Data collected under the Domestic Abuse Act is confidential, until a temporary court order made pursuant to subdivision 5 or 7 of section 518B.01 is executed or served upon the data subject who is the respondent to the action.	Confidential	MS 13.80 & 13.82	Certain employees on an as needed basis as part of specific work assignment.
Economic Assistance Data	The following data that are submitted to a housing and redevelopment authority by persons who are requesting financial assistance are private data on individuals or nonpublic data: financial statements; credit reports; business plans; income and expense projections; customer lists; balance sheets; income tax returns; and design, market, and feasibility studies	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.59	Certain employees on an as needed basis as part of specific work assignment.

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	not paid for with public funds. Data become public data if the authority provides financial assistance to the person, except that the following data remain private or nonpublic: business plans; income and expense projections not related to the financial assistance provided; customer lists; income tax returns; and design, market, and feasibility studies not paid for with public funds.			
Elected Officials Correspondence	Correspondence between individuals and elected officials.	Private, but may be made public by either the sender or recipient.	MS 13.601, subd. 2	Certain employees on an as needed basis as part of specific work assignment.
Examination Data	Completed versions of personnel, licensing, or academic examinations are private, unless the Responsible Authority determines that they should be confidential because access would compromise the objectivity, fairness, or integrity of the examination process.	Private	MS 13.34	Certain employees on an as needed basis as part of specific work assignment.
Federal Contracts Data	To the extent that a federal agency requires it as a condition for contracting with a City, all government data collected and maintained by the City because the City contracts with the federal agency is classified as private or nonpublic.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.35	Certain employees on an as needed basis as part of specific work assignment.
Firearms Data	Data about the purchase or transfer of firearms and applications for permits to carry firearms.	Private	MS 13.87, subd. 2	Certain employees on an as needed basis as part of specific work assignment.
Human Rights	Human rights investigative data	Confidential,	MS 363A.35	Certain

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
Investigative Data	are confidential while the file is open with the Department of Human Rights. Human rights investigative data contained in a closed case file are private data, except that the name and address of the charging party and respondent, factual basis of the allegations, the statute under which the action is brought, the part of the summary of the investigation that does not contain identifying data on a person other than the complainant or respondent, and the commissioner's memorandum determining whether probable cause has been shown are public data, unless another statute applies.	Private		employees on an as needed basis as part of specific work assignment.
Ice Arena Rentals	The following data relating to convention rentals are classified as private or nonpublic: Letter or other documentation from any person who makes inquiry to or who is contacted by the facility regarding the availability of the facility for staging events, identity of firms and corporations which contact the facility, type of event which they wish to stage in the facility, suggested terms of rentals, and responses of authority staff to these inquiries, exhibitor data.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.55	Certain employees on an as needed basis as part of specific work assignment.
Labor Relations Data	Management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information collected or created to prepare the management position.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.37	Certain employees on an as needed basis as part of specific work assignment.
Law Enforcement Data (applies to City agencies)	Certain arrest data, request for service data, and response or incident data is public under	Confidential, Private, Public	MS 13.82	Certain employees on an as needed

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
<p>carrying on a law enforcement function, including the City's police and fire departments)</p>	<p>Minn. Stat. §13.82. Otherwise, investigative data collected to prepare a case against a person for the commission of a crime or civil wrong is confidential while the investigation is active. Photographs that are part of inactive investigation files are private if they are clearly offensive to common sensibilities. Inactive investigation data that identify a person's financial account or transaction numbers are private data. Booking photographs are public.</p> <p>The identity of a victim of child abuse or neglect is private. The identity of a reporter of child abuse or neglect is confidential. Inactive investigative data that relates to the alleged abuse or neglect of a child by a person responsible for the child's care is private.</p> <p>The identity of a victim of vulnerable adult maltreatment is private. The identity of a reporter of vulnerable adult maltreatment is confidential. Inactive investigative data that relates to the alleged maltreatment of a vulnerable adult by a caregiver or facility are private.</p> <p>Law enforcement data are private and shall be withheld from the public under certain circumstances when necessary to protect the identifies of: undercover law enforcement officers, victims of certain sex crimes, informants, victims and witnesses who specifically request not to be identified publicly, deceased persons whose bodies are unlawfully removed from a cemetery.</p>			<p>basis as part of specific work assignment.</p>

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	<p>certain persons placing a call to a 911 system, juvenile witnesses when necessary to protect the identity of the witness, and mandated reporters. Response or incident data may be temporarily withheld from public access when the law enforcement agency reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence.</p> <p>The audio recording of a call placed to a 911 system for the purpose of requesting service from a law enforcement, fire, or medical agency is private data on individuals with respect to the individual making the call, except that a written transcript of the audio recording is public, unless it reveals the identity of an individual otherwise protected.</p> <p>Unique descriptions of stolen, lost, confiscated, or recovered property are private.</p> <p>Identities of customers of licensed pawnshops, secondhand goods dealers, or a scrap metal dealer are private.</p> <p>Detention data which would disclose medical, psychological or financial information or endanger an individual's life is private (Minn. Stat. §13.85).</p> <p>Criminal history data is private, except convictions of crimes within the past 15 years (Minn. Stat. §13.87).</p> <p>Deliberative processes or investigative techniques of law</p>			

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	<p>enforcement agencies are confidential.</p> <p>Data in arrest warrants or search warrants is confidential until the individual has been taken into custody, served with a warrant, or appears before the court, except when the law enforcement agency determines that the public purpose is served by making the information public.</p> <p>Peace officer records of children who are or may be delinquent or who may be engaged in criminal acts are private but may be disseminated by the law enforcement agency as provided by Minn. Stat. § 260B.171, subd. 5(a).</p>			
Personal Contact and Online Account Information	Telephone numbers, e-mail addresses, Internet usernames, passwords, Internet protocol addresses, and any other similar data collected, maintained, or received by a government entity for notification purposes or as part of a subscription list as requested by the individual are private data.	Private	MS 13.356	Certain employees on an as needed basis as part of specific work assignment.
Personnel Data	Data on individuals maintained because the individual is or was an employee of the City, an applicant for employment with the City, a volunteer performing services for the City, or an independent contractor performing services for the City is either public, private, or confidential pursuant to MS 13.43. <u>Personnel data, other than Social Security numbers, will be disseminated to an employee's Labor Union or the Public Employment Relations Board to the extent necessary to</u>	Private, Confidential, or Public	MS 13.43	Certain employees on an as needed basis as part of specific work assignment; <u>Employee Labor Unions representative(s) when required by law.</u>

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	<p>conduct elections; investigate and process grievances; implement the provisions of the Public Employment Labor Relations Act; and provide basic contact information to the exclusive representative for the employee's Union.</p>			
Planning Survey Data	<p>The following data collected in surveys of businesses conducted by the City for the purpose of planning, development and redevelopment are classified as private or nonpublic: names and addresses of individuals and the legal descriptions of property owned by the individuals, and the commercial use of the property to the extent disclosure of the use would identify a particular business.</p> <p>The following data collected in surveys of individuals conducted by cities and housing and redevelopment authorities for the purposes of planning, development, and redevelopment, are classified as private: the names and addresses of individuals and the legal descriptions of property owned by individuals.</p>	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.59	Certain employees on an as needed basis as part of specific work assignment.
Portable Recording System Data	<p>Data collected by a portable recording system (a device worn by a peace officer that is capable of both video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation) are private data on individuals or nonpublic data, subject to the following exceptions:</p> <p>(1) Data that records, describes, or otherwise documents</p>	Public; Private; Nonpublic; Protected nonpublic; Confidential	MS 13.825	Certain law enforcement personnel may access not public Portable Recording System Data only if they receive written authorization from the Chief of Police or the Chief's designee, and

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	<p><u>actions and circumstances surrounding</u> the discharge of a firearm by a peace officer in the course of duty, other than for training purposes or the killing of an animal that is sick, injured, or dangerous, are public.</p> <p>(2) Data that <u>records, describes, or otherwise documents actions and circumstances surrounding</u> the use of force by a peace officer that results in substantial bodily harm are public.</p> <p>(3) Data are public if a subject of the data requests it be made accessible to the public, except that, if practicable, (i) data on a subject who is not a peace officer and who does not consent to the release must be redacted, and (ii) data on an undercover peace officer must be redacted.</p> <p>(4) Data regarding an active criminal investigation are confidential or protected nonpublic while the investigation is active.</p> <p>(5) Data that documents the final disposition of any disciplinary action against an employee, together with the specific reasons for the action and data documenting the basis of the action, are public.</p> <p><u>(6)</u> The City may redact or withhold access to portions of data that are public if those portions of data are clearly offensive to common sensibilities.</p> <p><u>(6)(7) Notwithstanding paragraph (3) above, when an individual dies as a result</u></p>			<p>only if access serves a legitimate, specified law enforcement purpose.</p>

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	<p>of a use of force by a peace officer, the City will allow the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request: (i) the deceased's next of kin; (ii) the legal representative of the deceased next of kin; (iii) the other parent of the deceased individual's child. The City may deny a request to inspect if the Police Department determines that there is a compelling reason that inspection would interfere with an active investigation. The data in this paragraph shall become public to other persons no later than 14 days after the incident. The City's Police Chief may deny access to this data by providing a written denial with a short description of the reason access was denied.</p>			
Predatory Offender Registration and Release	<p>Data on the registration and release of persons required to register as predatory offenders is private data on the offender, except as required by law to be released to the public. Information regarding witnesses requesting notice of the release of the offender, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are private data on the recipient of the notice.</p>	Private	MS 244.053; 244.10	Certain employees on an as needed basis as part of specific work assignment.
Property Complaint Data	<p>The identities of individuals who register complaints concerning violations of state laws or local</p>	Confidential	MS 13.44	Certain employees on an as needed

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	ordinances concerning the use of real property.			basis as part of specific work assignment.
Political Subdivision Licensing Data	The following data submitted to a political subdivision by a person seeking to obtain a license: (1) a tax return; and (2) a bank account statement. Political Subdivision Licensing Data collected will be destroyed no later than 90 days after a final decision on a license application.	Private or Nonpublic	MS 13.204	Certain employees on an as needed basis as part of specific work assignment.
Recreation Data	For people enrolling in recreational or other social programs: name, address, telephone number, any other data that identify the individual, and any data which describes the health or medical condition of the individual, family relationships, living arrangements, and opinions as to the emotional makeup or behavior of an individual.	Private	MS 13.548	Certain employees on an as needed basis as part of specific work assignment.
Sealed Bids	Sealed bids, including the number of bids received, prior to opening.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.37	Certain employees on an as needed basis as part of specific work assignment.
Security Information	Data that would substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. This includes checking account numbers, crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home and mailing addresses, telephone numbers, e-mail or other digital	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.37	Certain employees on an as needed basis as part of specific work assignment.

Name of Record, File, Process, Form or Data Type	Description	Data Classification	Citation for Classification	Employee Work Access
	addresses, Internet communication services accounts information or similar accounts information, and global positioning system locations.			
Social Security Numbers	Social security numbers, in whole or in part, are private.	Private	MS 13.355	Certain employees on an as needed basis as part of specific work assignment. Exhibit
Trade Secret Information	Government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the affected individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.	Private with regard to data on individuals; Nonpublic with regard to data not on individuals	MS 13.37	Certain employees on an as needed basis as part of specific work assignment.
Transportation Service and Transit Customer Data	Personal, medical, financial, familial or locational information pertaining to applicants for or users of services providing transportation for the disabled or elderly. <u>Additionally, data collected by or through the City website; by telephone; or through a third-party software program for the purposes of booking and using public transit services.</u>	Private	MS 13.72, subd. 10	Certain employees on an as needed basis as part of specific work assignment.

Exhibit C

RIGHTS OF SUBJECTS OF GOVERNMENT DATA SAMPLE "TENNESSEN WARNING"

In accordance with the Minnesota Government Data Practices Act (MGDPA), the City of Red Wing is required to inform you of your rights as they pertain to the information collected about you. Public information is data that is not classified by state statute, federal law or temporary classification as either private or confidential. It is accessible to anyone for any reason. All government data is presumed to be public unless a specific state or federal law classifies it otherwise. Private information is that information which is available to you, not the public. The information we collect from you is either public or private. The separation of that information is as follows:

PUBLIC - Name; city of residence; education and training; employment history; volunteer work; awards and honors; prior government service; and veteran status.

After an individual is appointed to a public body, the following additional items of data are public: residential address, either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee; first and last dates of service on the public body; the existence and status of any complaints or charges against an appointee; and upon completion of an investigation of a complaint or charge against an appointee, the final investigation report, unless access to the data would jeopardize an active investigation.

PRIVATE - All other information collected at the time of the application.

The information collected and required from you is to determine your eligibility for a City of Red Wing Board and Commission position. If you do not supply the required information, the City of Red Wing will not be able to determine your eligibility. The dissemination and use of the private data we collect is limited to that necessary for the administration of Board and Commission positions. Persons or agencies with whom this information may be shared include:

CITY AND COUNTY PERSONNEL INVOLVED IN DETERMINING YOUR ELIGIBILITY, CITY COUNCIL MEMBERS TO APPROVE THE APPLICATION, CONTRACTED PUBLIC AUDITORS AND THOSE INDIVIDUALS TO WHOM YOU GIVE YOUR EXPRESS WRITTEN PERMISSION.

Unless otherwise authorized by state statute or federal law, other government agencies utilizing the reported private data must also treat the information private.

You have the following rights under the MGDPA: The right to see and obtain copies of the data maintained on you, the right to be told the contents and meaning of the data, and the right to contest the accuracy and completeness of the data. To exercise these rights, contact Administration, Second Floor, City Hall, Red Wing, MN, 55066.

I have read and understand the above information regarding my rights as a subject of government data.

(Signature of Applicant)

(Date)

CONSENT TO ADDITIONAL DISCLOSURE

I understand and agree that, if my application is selected for consideration by the City Council, all of the data contained in my application materials and provided to the City in support of my application will be published in the City Council packet and will be made available to the public, with the exception of my address, email address, and phone numbers. I consent to the disclosure of all the data in my application materials, regardless of whether that information would otherwise be deemed private under the Minnesota Government Data Practices Act, with the exception of my address, email address, and phone numbers.

(Signature of Applicant)

(Date)

Exhibit D

CONSENT TO RELEASE PRIVATE DATA

I, _____, authorize the City of Red Wing ("City") to release
(print name)
the following private data about me:

to the following person or people:

The person or people receiving the private data may use it only for the following purpose or purposes:

This authorization is dated _____ and expires on _____.
The expiration cannot exceed one year from the date of the authorization, except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

I agree to give up and waive all claims that I might have against the City, its agents and employees for releasing data pursuant to this request.

X _____
Signature

Identity verified by:

- Witness: x _____
- Identification: Driver's License, State ID, Passport, other: _____
- Comparison with signature on file
- Other: _____

Responsible Authority/Designee: _____

Exhibit E

INFORMATION DISCLOSURE REQUEST

Minnesota Government Data Practices Act

A. Completed by Requester

- NOTE:** 1. Request Frequency – Private Data on Individuals. After you have been given the data and informed of its meaning, the data need not be disclosed to you six months thereafter unless a dispute or action is pending or additional data on you has been collected.
2. You may be required to pay the actual costs of making, certifying and/or compiling the copies of information requested.

REQUESTER NAME (Last, First, M.): _____	DATE OF REQUEST: _____
STREET ADDRESS: _____	PHONE NUMBER: _____ EMAIL ADDR: _____
CITY, STATE, ZIP: _____	SIGNATURE: <u> X </u>
DESCRIPTION OF THE INFORMATION REQUESTED: _____ _____ _____	

B. Completed by Department

DEPARTMENT NAME: _____	HANDLED BY: _____
INFORMATION CLASSIFIED AS: <input type="checkbox"/> PUBLIC <input type="checkbox"/> NONPUBLIC <input type="checkbox"/> PRIVATE <input type="checkbox"/> PROTECTED NONPUBLIC <input type="checkbox"/> CONFIDENTIAL	ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> APPROVED IN PART (Explain below) <input type="checkbox"/> DENIED (Explain below)
REMARKS OR BASIS FOR DENIAL INCLUDING STATUTE SECTION: _____ _____	
PHOTOCOPYING CHARGES: <input type="checkbox"/> NONE <input type="checkbox"/> _____ Pages x _____ ¢ = \$ _____ <input type="checkbox"/> Special Rate: _____ (attach explanation) <i>No charge for 10 pages or less (to person not subject of data)</i>	IDENTITY VERIFIED FOR PRIVATE INFORMATION <input type="checkbox"/> IDENTIFICATION: DRIVER'S LICENSE, STATE ID, Etc. <input type="checkbox"/> COMPARISON WITH SIGNATURE ON FILE <input type="checkbox"/> PERSONAL KNOWLEDGE <input type="checkbox"/> OTHER: _____
AUTHORIZED SIGNATURE: <u> X </u>	DATE REQUEST APPROVED OR DENIED: _____

Requested by: _____ Subject of Data _____ Not Subject of Data

Exhibit F

RED WING POLICE DEPARTMENT
GORDON ROHRNICK SATHER, CHIEF OF POLICE
REQUEST FOR POLICE DATA

DATE OF REQUEST: _____

IF THE DATA YOU ARE REQUESTING IS ABOUT YOU OR IS PRIVATE DATA ABOUT YOU:

To request data as a data subject or private data about you, we will require you to show a valid state ID, such as a driver's license, military ID or passport as proof of identity.

IF THE DATA YOU ARE REQUESTING IS PUBLIC:

You do not have to provide any of the below contact information. However, if you want us to mail/email you copies of data, we will need some type of contact information. In addition, if we do not understand your request and need to get clarification from you, we may have to contact you.

NAME OF REQUESTOR:

(LAST) (FIRST) (MIDDLE)

ADDRESS:

(STREET) (CITY) (STATE) (ZIP)

PHONE #: _____ EMAIL ADDRESS: _____

SIGNATURE OF REQUESTOR: _____

INFORMATION REQUESTED: Describe the data you are requesting as specifically as possible; i.e. names, dates of birth; type of incident; date of incident; case number if known,etc.

(PLEASE COMPLETE BACK SIDE ALSO)

PLEASE INDICATE HOW YOU WOULD LIKE TO RECEIVE THE REPORT(S):

- WILL PICK UP REPORT(S) AT THE POLICE DEPARTMENT
- MAIL TO ADDRESS INDICATED ABOVE

EMAIL TO ADDRESS INDICATED

MAIL TO DIFFERENT ADDRESS: _____

This form can be delivered to the Red Wing Police Department, FAXED or mailed.

Red Wing Police Department ATT: Records
430 West 6th Street
Red Wing, MN 55066
FAX: 651-267-2695 or 651-267-2669

Please NOTE the Red Wing Police Department may take up to ten days to respond to this request. A fee may be applicable for copies of reports.

DEPARTMENT USE ONLY:

IDENTIFICATION VERIFIED IF APPLICABLE: DL STATE ID MILITARY ID

PASSPORT OTHER (explain) _____

DATE REQUESTOR PICKED UP REPORT OR DATE MAILED/EMAILED: _____

INCIDENT NUMBER(S) OF REPORTS RECEIVED:

COST OF REPORT IF APPLICABLE:

REQUEST PROCESSED BY: _____
Signature

Exhibit F-1

RED WING POLICE DEPARTMENT
GORDON ROHRNICK SATHER, POLICE CHIEF

REQUEST FOR PORTABLE RECORDING

Minnesota State Statute 13.825 Portable Recording Systems states that data collected by a portable recording system are private data on individuals or nonpublic data, subject to Subd. 2.

Request Date:		RWPD Case #:	
----------------------	--	---------------------	--

Date of Recording:		Officer(s) Name/Badge #(s)	
---------------------------	--	---------------------------------------	--

Address/Location of Recording:			
---------------------------------------	--	--	--

Subject of the Data in the Recording OR Representative of the Subject of the Data:	<input type="checkbox"/> I am the subject of the data in the recording <input type="checkbox"/> I am the subject of the data in the recording and I am requesting the release of my image, my voice and my actions to be made public per MN Statute 13.825 (2) <input type="checkbox"/> I am a representative of the subject of the data in the recording (name of subject of the data) <u>(Consent to Release Private Data form must be signed)</u> <input type="checkbox"/> <u>(For recording data involving a deceased individual) I am the deceased individual's next of kin, a legal representative of the next of kin, or the other parent of the deceased individual's child</u>
---	--

NOT Subject of the Data in the Recording:	<input type="checkbox"/> I am requesting public data of the recording of a peace officer involved in a firearm discharge or use of force resulting in substantial bodily harm <u>or death</u> per MN Statute 13.825 (4 2) <input type="checkbox"/> I am requesting the data of the recording as a member of a law enforcement agency, government entity or federal agency authorized to receive this data per MN Statute 13.825 (8) Reason for request:
--	---

--	--	--	--

Name of Requester:	Last	First	Middle
---------------------------	------	-------	--------

Address:			
-----------------	--	--	--

Phone:		Email:	
---------------	--	---------------	--

Signature of Requester:			
--------------------------------	--	--	--

OFFICE USE ONLY:

Staff Verified Valid Photo Identification: <input type="checkbox"/>	ID TYPE:		Staff Initials:	
--	-----------------	--	------------------------	--

Signature of Staff Completing Request:		Date:	
---	--	--------------	--

Exhibit F-2

RED WING POLICE DEPARTMENT
GORDON ROHRNICK SATHER, POLICE CHIEF

CONSENT TO RELEASE PRIVATE DATA

I, _____, authorize the Red Wing Police Department
to
(Print name)

RELEASE the following private data about me: (PLEASE DESCRIBE IN DETAIL
THE INFORMATION TO BE RELEASED INCLUDING DATE AND LOCATION OF
INCIDENT AND INCIDENT NUMBER)

TO the following person(s); representatives:

The person(s) receiving the private data may use it only for the following purpose
or purposes:

This authorization is dated: _____ and expires
on: _____
(the expiration cannot exceed one year from the date of the authorization)

I agree to give up and waive all claims that I might have against the Red Wing
Police Department, its agents and employees for releasing data pursuant to the
request.

Signature

Exhibit G

GOVERNMENT DATA ACCESS AND NONDISCLOSURE AGREEMENT

1. **AUTHORIZATION.** City of Red Wing ("City") hereby authorizes _____, ("Authorized Party") access to the following government data:

2. **PURPOSE.** Access to this government data is limited to the objective of creating summary data for the following purposes:

3. **COST.** (Check which applies):

The Requesting Party is the person who requested the summary data and agrees to bear the City's costs associated with the preparation of the data which has been determined to be \$_____.

The Requesting Party has requested the City to prepare summary data and will pay in accordance with attached Exhibit A.

4. **SECURITY.** The Authorized Party agrees that it and any employees or agents under its control must protect the privacy interests of individual data subjects in accordance with the terms of this Agreement.

The Authorized Party agrees to remove all unique personal identifiers which could be used to identify any individual from data classified by state or federal law as not public which is obtained from City records and incorporated into reports, summaries, compilations, articles, or any document or series of documents.

Data contained in files, records, microfilm, or other storage media maintained by the City are the City's property and are not to leave the City's custody. The Authorized Party agrees not to make reproductions of any data or remove any data from the site where it is provided, if the data can in any way identify an individual.

No data which is not public and which is irrelevant to the purpose stated above will ever be disclosed or communicated to anyone by any means.

The Authorized Party warrants that the following named individual(s) will be the only person(s) to participate in the collection of the data described above:

5. **LIABILITY FOR DISCLOSURE.** The Authorized Party is liable for any unlawful use or disclosure of government data collected, used, and maintained in the exercise of this Agreement and classified as not public under state or federal law. The Authorized Party understands that it may be subject to civil or criminal penalties under those laws.

The Authorized party agrees to defend, indemnify, and hold the City, its officers and employees harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from an act or omission of the Authorized Party, its agents, employees or assignees under this agreement and against all loss by reason of the Authorized Party's failure to fully perform in any respect all obligations under this Agreement.

6. **INSURANCE.** In order to protect itself as well as the City, the Authorized Party agrees at all times during the term of the Agreement to maintain insurance covering the Authorized Party's activities under this Agreement. The insurance will cover \$1,000,000 per claimant for personal injuries and/or damages and \$1,000,000 per occurrence. The policy must cover the indemnification obligation specified above.

7. **ACCESS PERIOD.** The Authorized Party may have access to the information described above from _____ to _____.

8. **SURVEY RESULTS.** (Check which applies):

If the Authorized Party is the requester, a copy of all reports, summaries, compilations, articles, publications, or any document or series of documents which are created from the information provided under this Agreement must be made available to the City in its entirety.

If the Authorized Party is a contractor of the City, all copies of reports, summaries, compilations, articles, publications, or any document or series of documents which are created from the information provided under this Agreement must be provided to the City. The Authorized Party may retain one copy for its own records but may not disclose it without City permission, except in defense of claims brought against it.

AUTHORIZED PARTY: _____

By: _____

Date: _____

Title (if applicable): _____

CITY OF RED WING

By: _____

Date: _____

Its: _____

Exhibit H

SAMPLE CONTRACT PROVISION

Data Practices Compliance. Contractor will have access to data collected or maintained by the City to the extent necessary to perform Contractor's obligations under this contract. Contractor agrees to administer the data consistent with the Minnesota Government Data Practices Act and to maintain all data obtained from the City in the same manner as the City is required under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. Contractor will not release or disclose the contents of data classified as not public to any person unless it is part of litigation and then it can be released to the Court after approval by the City Attorney. Contractor agrees to defend and indemnify the City from any claim, liability, damage, or loss asserted against the City as a result of Contractor's failure to comply with the requirements of the Act or this contract. Upon termination of this contract, Contractor agrees to return data to the City, as requested by the City.

Exhibit I

NOTICE TO PERSONS UNDER AGE OF 18

Some of the information you are asked to provide is classified as private under state law. You have the right to request that some of the information not be given to one or both of your parents/legal guardians. Please complete the form below if you wish to have information withheld.

Your request does not automatically mean that the information will be withheld. State law requires the City to determine if honoring the request would be in your best interest. The City is required to consider:

- Whether you are of sufficient age and maturity to explain the reasons and understand the consequences,
- Whether denying access may protect you from physical or emotional harm,
- Whether there is reasonable grounds to support your reasons, and
- Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize your health.

NOTICE GIVEN TO: _____

Date: _____

BY: _____

(title)

Request to Withhold Information

I request that the following information: _____

Be withheld from: _____

For these reasons: _____

Date: _____ Print Name: _____

Signature: _____

Exhibit J

RED WING PUBLIC LIBRARY REGISTRATION

If you need this information in another format (large print, Braille, etc.) please ask library staff or call (612) 385-3673 v/tdd at least 3 days in advance

Name

First Middle Last

Home Phone (____) _____ Work Phone (____) _____

Address/City

State _____ County _____ Zip Code _____

I live inside my town or city limits: Yes _____ No _____

Birth Date _____ ID # _____

Identification which verifies current address; if a driver's license is not current, a second form of verification is required (personal check, rental receipt, etc.)

The information requested is required to support library service. By Minnesota law information which links your name with library materials is considered private. Information from this registration form, other than your name, is also private, available only to you and to appropriate library personnel, and by those otherwise authorized by law. If you are under age 18, information about your library record is available to your parents and/or guardian unless you ask to have this information withheld by filling out a Data Privacy Request Form and if it is determined that withholding this information is in your best interest.

I agree to obey all rules established by the library, to pay promptly all overdue fines charged to this card, to pay for damaged and lost items, and to give immediate notice of any change of address or loss of card. I understand that this library card must be in good standing in order to receive library services.

SIGNATURE _____

PARENT'S OR GUARDIAN'S SIGNATURE: _____

(If applicant is under 13 years of age, a parent or guardian must also sign here and include parent/guardian identification as listed above.)

FOR STAFF USE ONLY: A J T H D W W3 W6

REPLACEMENT CARD _____

NEW REGISTRATION _____

LIBRARY CARD # _____

STAFF INITIALS _____

DATE _____

Exhibit K

**DATA PRIVACY WITHHOLDING REQUEST FORM
RED WING PUBLIC LIBRARY**

If you need this information in another format (large print, Braille, etc.) please ask library staff or call (612) 385-3673 at least 3 days in advance

I have been informed that under the Minnesota Government Data Practices Act, I, as a minor, may request private data about me maintained by the library be withheld from my parent/guardian. I understand that this information will be withheld if it is determined to be in my best interests.

I request the following data about me be withheld from my parent/guardian:

DATA:

Signature of minor: _____ Date: _____

NAME (please print) _____

ADDRESS _____

TELEPHONE _____ BEST TIME TO CALL _____

BIRTHDATE _____
(Month) (Day) (Year)

The Library Director will contact you.

(Signature of Library Director) (Date)

Exhibit L

RED WING LIBRARY *Standards and Guidelines for Automated Library Systems*

DATA PRIVACY STANDARDS AND GUIDELINES

INTRODUCTION

On-line automated systems have brought a kind of instant access to patron information that was normally unavailable to libraries prior to the 1970's. Now library staff routinely have access to information about what patrons have checked out, for example, or what titles they have requested. The availability of this information has expanded questions of data privacy policy from traditional concerns of protecting patrons from unwarranted incursions into their records to everyday situations that can occur wherever automated systems provide access to patron information.

The Data Privacy Standards address issues of data privacy as they relate to library automation. Because automated systems affect many areas of library operations, the standards and guidelines address a wide range of issues affecting patron records, circulation records, and other operations records, but their focus remains privacy vis-à-vis automated systems. They do not attempt to address all library data privacy concerns.

The Data Privacy Standards were written to conform to the Minnesota Government Data Practices Act (see description below). The Minnesota Government Data Practices Act governs data practices of state agencies, political subdivisions, and state-wide systems. While the standards contained herein were written to be consistent with the law, they do not have the force of law. School libraries, libraries of publicly-supported academic institutions, state agency libraries, and other governmental agency libraries should be aware that there are many types of data in addition to library data governed by the law (e.g., educational data, welfare data, medical data, criminal justice data). A library holding educational data, for example, also needs to be aware of the sections of the law governing such data.

The Minnesota Government Data Practices Act is often vague and many of its provisions are untested in the courts. Librarians responsible for creating and implementing data practices should obtain legal advice on all proposed policies and procedures. These standards and guidelines should not be used as a substitute for legal counsel.

The Minnesota Government Data Practices Act requires that each political subdivision appoint a person called a "responsible authority" for matters relating to data privacy. (Minnesota Statutes 1996, Section 13.02, Subdivision 16). Since legal opinion concerning implementation of the Act will vary, libraries should consult their responsible authority, as well as their local legal authorities, concerning interpretation of and compliance with the Act.

The Office of Library Development and Services, Minnesota Department of Children, Families and Learning, can also offer assistance to libraries as to the current interpretations of this act.

BACKGROUND: THE MINNESOTA DATA PRACTICES ACT

The Minnesota Government Data Practices Act (Minnesota Statutes 1996, Chapter 13) was initially enacted in 1979. It, along with Chapter 1205 of the Department of Administration Rules, governs data practices of “state agencies, political subdivisions, and statewide systems” (Minnesota Statutes, Sec. 13.01, Subd. 1). The Minnesota Government Data Practices Act covers a wide variety of data (personnel, licensing, welfare, health, etc.) in addition to library data. Section 13.40 deals specifically with library data. Provisions and definitions of particular application to libraries include:

1. Public vs. private data.

“Except as provided in paragraph (b), the following data maintained by a library are private data on individuals and may not be disclosed for other than library purposes except pursuant to a court order: (1) data that link a library patron’s name with materials requested or borrowed by the patron or that link a patron’s name with a specific subject about which the patron has requested information or materials; or (2) data in applications for borrower cards, other than the name of the borrower.” (Minnesota Statutes 1996, Sec. 13.40, Subd. 2 (a) (1))

2. Pick Up of Reserves.

“A library may release reserved materials to a family member or other person who resides with a library patron and who is picking up the material on behalf of the patron. A patron may request that reserved materials be released only to the patron.” (Minnesota Statutes 1996, Sec. 13.40, Subd. 2 (b))

3. Private data on individuals.

“*Private data on individuals* means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the subject of the data.” (Minnesota Statutes 1996, Sec. 13.02, Subd. 12)

4. Relationship of minors to parents/guardians.

“*Individual* means a natural person. In the case of a minor or an incapacitated person, *individual* includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.” (Sec. 13.02, Subd. 8) “Minor” means an individual under the age of 18 (Minnesota Statutes 1996, Sec. 645.451, Subd. 2)

5. Information required to be given individual, upon request for private or confidential data.

“An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting state agency, political subdivision, or statewide system; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data. (Sec. 13.04, Subd. 2)

DATA PRIVACY STANDARDS

1. Libraries should have written policies and procedures regarding data privacy and should make (and keep) all staff and volunteers familiar with such policies and procedures.
2. If a library allows its patrons unsupervised access to private data in a patron's own record, procedures should be adopted to ensure that access to that record cannot be obtained by others without the patron's consent.
3. A library should allow another agency within the institution or another library access to its patron records only if the individual from whom private data was collected was informed of that use/dissemination in the “Tennessee warning” given when the data was initially collected and if that agency or library agrees in writing to treat the data in those records in a manner consistent with standards and with the written policies and procedures of the library concerning data privacy.
4. In the case of shared library systems where staff at several libraries have access to the same private data, participating libraries should jointly formulate a set of standards and procedures concerning access to private data.
5. If a library petitions the appropriate authority to broaden or otherwise alter the definition of private data, a copy of that petition should be sent to the Minnesota State Library so that the Library can make the MINITEX/Minnesota State Library Standards Task Force aware of what changes are being proposed.
6. These data privacy standards should be followed by all libraries in Minnesota and they should apply to all persons using Minnesota libraries, regardless of their home residency.
7. All data privacy policies and procedures shall be consistent with all applicable state and federal laws.

DATA PRIVACY IMPLEMENTATION GUIDELINES

The following general guidelines are intended to help libraries develop data privacy policy and procedure as it concerns library automation. They describe areas that libraries should review for compliance with the Minnesota Government Data Practices Act.

1. Identification.

In summary, the Minnesota Government Data Practices Act requires that private data (the specific titles and subjects charged to or requested by a library user and data in application for library cards, except the person's name) is to be made available only to the subjects of that data. In the case of minors or individuals adjudged mentally incompetent, private data is also available to their parents or guardians. This legal requirement should be addressed wherever private data is handled at reference, circulation, and technical service areas.

A library may release reserved materials to a family member or other person who resides with a library patron and who is picking up material on behalf of the patron. A patron may request that reserved materials be released only to the patron.

Registration procedures for library cards must give the patron the option of having reserved materials released only to them.

Particularly at circulation desks, the issue is how to develop workable procedures for handling patron requests, in person and over the telephone, for circulation information. ("What do I have checked out? What does my son?" "I got this overdue notice and ...") Given the specific situation at your library, what kind of patron identification can be reasonably required for staff to provide data with confidence?

2. Providing public data.

Anyone can request, and libraries must provide, library data classified as public. It is prudent to ask for and keep only what patron information the library needs for its operation. Public data could be requested and used for purposes you don't intend.

Note: The rules governing the Minnesota Government Data Practices Act state that a "reasonable fee" can be charged for providing copies of public data, taking into account the cost of materials, labor, mailing, electronic transmissions, and other costs. A citizen who wants to only inspect public data cannot be charged any kind of fee for that inspection. (Minnesota Statutes 1996, Section 13.03, Subdivision 3)

3. Data trails.

Libraries should examine data trails left where private data has been gathered, to eliminate the possibility of its being accessible to non-authorized persons. For example, how are the following recorded, maintained, and disposed of: reserve

forms, subject request forms, on-line database search requests and results, ILL forms, notices mailed or otherwise delivered to patrons, manual charge cards?

It should be noted that any charge out procedure that requires a patron to sign his or her name on a card containing the title or call number for the charged material is illegal if that same card is subsequently accessible to another person, and would constitute a disclosure of private data to the public.

4. Public notification concerning private data.

4.1 According to the Minnesota Data Practices Act, minors have a right to request that private data be withheld from their parents or guardians and they must be informed of that right. (This requirement is sometimes referred to as “minor notification.”) Notification should be provided and procedures should be established to handle such a request, including making determinations as to whether honoring a request is in the “best interest” of the minor.

4.2 According to the Minnesota Government Data Practices Act, library users must be informed of what private data is being collected, its uses and disposition (sometimes referred to as the “Tennessee warning”).

Here is a **SAMPLE** public notification, combining Tennessee warning and minor notification:

“The information requested is required to support library service. By Minnesota law, information you provide in applying for a library card, except your name, as well as information which links your name with library materials is private. It is available only to you and to appropriate library personnel, and by those otherwise authorized by law. This information is required to support library service. If you are under age 18, information about materials requested or kept overdue is available to your parent or guardian. You may ask to have this information withheld by filling out a data privacy request form. However, we can only withhold this data from your parents if it is in your best interest to do so.”

4.3 The laws concerning criteria for guardianship are not clear-cut. Consult your legal counsel in drafting guidelines with regard to whom guardianship notification applies.

5. Training and documentation.

Library policy regarding data privacy should be written, approved by appropriate governing bodies, and distributed to staff. Ongoing training programs should ensure staff awareness of this policy and their role in upholding it.

Here is a **SAMPLE** library board policy:

"Library records linking the names of library users with specific library materials or subjects as well as information in applications for borrowers cards, other than the name of the borrower are private by law in Minnesota and may not be disclosed for other than library purposes except pursuant to a court order. All Library employees are advised that such records shall not be made available to any agency of state, federal, or local government except pursuant to such a court order as may be issued under the authority of and pursuant to federal, state, or local law relating to civil, criminal, or administration discovery procedures or legislative investigative power. The Library will resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction."

6. Statement III from the American Library Association Code of Ethics, 1995.

The ALA Code of Ethics, 1995 refers to data privacy as follows:

"We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired, or transmitted."

7. Classification of library data as public or private.

While the law defines private library data (Section 13.40 of the Minnesota Statutes), public institutions have the right and the ability to make application to the State Commissioner of Administration to classify other data maintained by libraries as not public.

Such petitions should also be forwarded to the Minnesota State Library at the address below prior to submission so that the State Library and the MINITEX/ Minnesota State Library Standards Review Task Force can be kept aware of emerging data privacy issues. The State Library can also offer technical help for reclassification efforts.

Minnesota State Law Library
1500 Highway 36 West
Roseville, MN 55113
651-582-8791

ANOTHER INFORMATION RESOURCE

Additional information about privacy as it pertains to information about students is included: *Privacy and the Handling of Student Information in the Electronic Networked Environments of Colleges and Universities (Cause, 1998)*, which may be borrowed from the Minnesota State Library or the MINITEX Office.



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LEGAL CONSIDERATIONS FOR CITY OFFICIALS

City of Red Wing 2024

By: Amy E. Mace

Amy.Mace@raswlaw.com

THE OPEN MEETING LAW

I. Purposes of the Open Meeting Law

Minnesota Statutes chapter 13D, also known as the Open Meeting Law (“OML”), was passed in the 1950s. It has been amended several times over the years, but its general aim—to prevent public bodies from dissolving into executive sessions to discuss controversial issues—has remained the same.

The Minnesota Supreme Court has discussed the purposes of the OML as follows:

- A. To prohibit actions from being taken at secret meetings where it is impossible for the public to be fully informed and/or detect improper influences. Lindahl v. Indep. Sch. Dist. No. 306 of Hubbard County, 133 N.W.2d 23 (Minn. 1965).
- B. To protect the public’s right to be informed. Channel 10, Inc. v. Indep. Sch. Dist. No. 709, St. Louis County, 215 N.W.2d 814 (Minn. 1974).

NOTE: These materials and the corresponding presentation are meant to inform you of interesting and important legal developments. While current as of the date of presentation, the information that is provided may be superseded by court decisions, legislative amendments, rule changes, and opinions issued by bodies interpreting the area of law. We cannot render legal advice without an awareness and analysis of the facts of a particular situation. If you have questions about the application of concepts addressed in this outline or discussed in the presentation, you should consult with your legal counsel. ©2024 Squires, Waldspurger & Mace, P.A.

- C. To guarantee the public a forum to present its views to the public body. Sullivan v. Credit River Twp., 217 N.W.2d 502 (Minn. 1974).

II. Meetings Subject to the Open Meeting Law

The law applies to all meetings of the City Council, and in general, meetings of City commissions and boards. Although the OML does not include a definition of a “meeting,” the Minnesota Supreme Court has defined a meeting under the OML as a “gathering of a quorum or more members of the governing body . . . at which members discuss, decide, or receive information as a group on issues relating to the official business of that governing body.” Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

- A. A majority of the public body constitutes a quorum. See Moberg.
- B. Even if a quorum of the public body is present, “chance or social gatherings” are not covered by the law. The social gathering, however, cannot be used to conduct official business unless the notice requirements discussed below have been met. St. Cloud Newspapers, Inc. v. Dist. 742 Cmty. Sch., 332 N.W.2d 1 (Minn. 1983); Moberg.
- C. The law does not apply to telephone conversations or letters between less than a quorum of members. See, e.g., Minnesota Educ. Ass’n v. Bennett, 321 N.W.2d 395 (Minn. 1982).
- D. Courts have cautioned that serial meetings of less than a quorum may be found to violate the law if the facts and circumstances indicate the purpose was to avoid the requirements of the law or to reach an agreement on an issue before the public meeting. Moberg.
- E. The Minnesota Supreme Court has rejected the argument that a discussion between two board members, outside of an open meeting, about a matter pending before the board is an absolute or automatic violation of the law. Moberg. The Court noted that public officials have a duty to persuade each other in an attempt to resolve issues, and the public benefits from this, so long as the discussion is not “designed to avoid public discussion altogether, to forge a majority in advance of public hearings on an issue, or to hide improper influences such as the personal or pecuniary interest of a public official.” Moberg, 336 N.W.2d at 518.
- F. An advisory opinion from the Minnesota Department of Administration’s Data Practices Office (“DPO”) concluded that email communication between board members constituted a meeting, which was required to be public. Adv.

Op. 09-020. A non-member sent an email to the Advisory Board of the Metro Gang Strike Force raising several issues and asking the Board to issue a press release. Seven members replied and copied the rest of the Board members. Based on their comments, the Chair issued a press release and emailed the Board that he had taken such action. The DPO concluded that the conduct of the Board constituted a meeting because a quorum of the Board, in addition to receiving information, commented on and provided direction to the Chair on a matter relating to official business of the Board. The DPO noted that one-way communication between the Chair and other members is permissible, such as when meeting materials are sent via email, as long as no discussion or decision-making ensues.

- G. An advisory opinion from the DPO noted that the definition of a meeting does not require a public body to transact public business or make or vote on motions for the OML requirements to apply. Adv. Op. 23-003. Instead, the Minnesota Supreme Court has determined that any gathering of a quorum or more of a public body's members to "discuss, decide, or receive information as a group on issues relating to the official business of that governing body" is a meeting subject to the OML's requirements. In that opinion, a city council had discussed issues at a special meeting that were not included in the special meeting notice's purpose but argued that the council did not transact public business, no motions were made, and no public business occurred during those discussions. The DPO determined it did not matter that the council did not transact public business or make or vote on motions—that is not required for a meeting to exist or for the OML requirements to apply.
- H. An advisory opinion from the DPO concluded that when a quorum of a Township Board attended a county planning commission meeting and heard and discussed matters also before the Board, this constituted a special meeting of the Board. Adv. Op. 16-005. The Board should have posted written notice of the time, date, place and purpose (i.e., a quorum of Board Supervisors will attend the [County] Planning Commission meeting on [date] at [time] for [purpose]).
- I. An advisory opinion from the DPO concluded that a school board violated the OML when a quorum of the school board was present at a school board committee meeting, which was noticed as a committee meeting but not as a full school board meeting. Adv. Op. 19-012. The DPO stated that each group identified in Minnesota Statutes section 13D.01, subdivision 1 (e.g., governing body of a school district or city and any committee of a public body), is independently subject to the notice requirements of the OML. The DPO concluded that once the fourth school board member was present (creating a quorum) to discuss, decide, or receive information as a group

relating to the official business of the school board, the committee meeting also became a meeting of the school board that needed to be noticed as a regular or special school board meeting. In this matter, the fourth school board member engaged in a discussion with the committee members, including whether items had been presented to the school board, an exchange about one-time funding, and a potential form to use to present information to the school board.

- J. An advisory opinion from the DPO concluded that it would not be a violation of the OML if a quorum of board members met privately with a facilitator in sessions designed to “improve trust, relationships, communications, and collaborative problem solving among Board members,” if they are not “gathering to discuss, decide, or receive information as a group relating to ‘the official business’ of the governing body.” Adv. Op. 16-006. The DPO did caution that, while the goal of the gatherings was not for Board members to exchange views on substantive decisions, incidental discussions of public business would constitute a meeting subject to the OML. Therefore, the Board members must avoid any issues specific to its official business during the sessions.

- K. An advisory opinion from the DPO concluded that a City Council’s two-day goal-setting session, at which the City Council discussed its long-term vision for the City and prioritized goals and action steps, constituted a meeting for purposes of the OML. Adv. Op. 18-003. The DPO’s opinion is consistent with Minnesota precedent finding that workshops or retreats specifically related to a particular city’s business are considered meetings under the OML. The DPO further opined that, because the goal-setting session was a meeting, convening the goal-setting session outside the territorial jurisdiction of the City Council violated the OML. The DPO explained that the City Council “effectively removed themselves from the people that they serve, thus undermining the public policy intent of the OML” to provide for open and public access to meetings.

- L. The Minnesota Court of Appeals has limited the law’s application to those committees possessing decision-making authority on behalf of the governing body. The Minnesota Daily v. Univ. of Minnesota, 432 N.W.2d 189 (Minn. App. 1988).
 - 1. Decision-making authority will be presumed where members of the committee constitute a quorum of the governing body. Sovereign v. Dunn, 498 N.W.2d 62 (Minn. App. 1993).

III. Notice Requirements

The notice requirements of the OML vary depending on the type of meeting: regular, special, emergency, and recessed/continued.

A. Regular Meetings

A public body must keep a schedule of its regular meetings on file at its primary office. Minn. Stat. § 13D.04, subd. 1. If a regular meeting is going to be held at a time or place different than listed on its schedule, the public body must provide notice of the meeting in the same manner as for a special meeting. Id.

B. Special Meetings

Notice of a special meeting must be posted three days in advance of the meeting. Minn. Stat. § 13D.04, subd. 2(b). Three days means 72 hours. The notice must state the date, time, place and purpose of the meeting, and it must be posted on the City's principal bulletin board. Id. subd. 2(a). The principal bulletin board has to be located in a place that is "reasonably accessible to the public." Rupp v. Mayasich, 533 N.W.2d 893 (Minn. App. 1995). If there is no principal bulletin board, it must be posted on the door of the regular meeting room. Minn. Stat. § 13D.04, subd. 2(a).

Notice of the special meeting must also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings. Id. subd. 2(b). In the alternative, the public body can publish notice in the official newspaper three days before the special meeting. Id. subd. 2(c).

While a public body may add (or remove) topics from consideration at a regular meeting (where the notice required does not include listing the "purpose"), it cannot do so at a special meeting. Adv. Op. 19-006. A notice for a special meeting must identify the purpose and the public body must limit the discussion to that purpose. Id. (city council violated the OML when it discussed and acted on three items that it failed to identify in its special meeting notice). The OML does not define "purpose" and, as a result, the DPO looked to the dictionary definition of the term, which is "something set up as an object or end to be attained: intention." Adv. Op. 22-009. Based on this, the DPO concluded that the OML requires a public body to provide notice of the intended object or end to be attained in a special meeting. Id. (board violated the OML when it closed a special meeting, stating in its notice that the purpose of the meeting was for preliminary consideration of allegations or charges against an individual, but then came out of closed

session and voted to impose discipline against the employee—in voting to impose discipline, the board moved beyond the special meeting’s “intended object or end to be obtained” described in the notice).

C. Emergency Meetings

An emergency meeting is defined as a meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. Minn. Stat. § 13D.04, subd. 3(e).

Notice of the emergency meeting shall be given by telephone or by any other reasonable method to members of the public body. Id. subd. 3(b).

The public body must also make a good faith effort to provide notice to news media that have filed a request for notice of emergency meetings if the request includes the news medium’s telephone number. Id. subd. 3(a).

D. Recessed or Continued Meetings

Published or mailed notice is unnecessary for a recessed or continued meeting as long as the time and place of the meeting were established during the previous meeting and recorded in the previous meeting’s minutes. Minn. Stat. § 13D.04, subd. 4(a).

E. Closed Meetings

The same notice requirements apply to a regular, special, or emergency meeting that is closed. Minn. Stat. § 13D.04, subd. 5.

IV. Materials for the Meeting

At least one copy of the agenda and any other written materials that are:

1) distributed to all members at the meeting; 2) distributed to all members before the meeting; or 3) available to all members in the meeting room must also be available in the meeting room for public inspection while the public body considers the subject matter. Minn. Stat. § 13D.01, subd. 6(a).

There are two general exceptions: 1) data classified as non-public under the Minnesota Government Data Practices Act; and 2) data relating to matters discussed at a closed meeting. See id. subd. 6(b).

An advisory opinion from the DPO concluded that materials handed out to a Township Board by a presenter had to be available to the public in the meeting

room, even if those materials were included in a prior meeting packet and read aloud at the meeting. Adv. Op. 18-011.

V. Meetings During Pandemic or Chapter 12 Emergency

- A. **Interactive Technology Defined.** In 2021, the legislature included a definition of “interactive technology” in the OML and replaced the previously used phrases—“other electronic means” and “interactive television”—with “interactive technology” throughout the OML. “Interactive technology” means “a device, software program, or other application that allows individuals in different physical locations to see and hear one another.” Minn. Stat. § 13D.001, subd. 2.
- B. **Conditions.** Meetings may be conducted by *telephone or interactive technology* if certain conditions are met. Minn. Stat. § 13D.021, subd. 1.
1. The presiding officer, chief legal counsel, or chief administrative officer for the affected governing body must determine that an in-person meeting (or a meeting conducted by interactive technology under section 13D.02—see section VI) is “not practical or prudent *because of a health pandemic or an emergency declared under chapter 12.*”
 2. All members of the body participating in the meeting, wherever their physical location, *can hear one another and can hear all discussion and testimony;*
 3. Members of the public present at the regular meeting location *can hear all discussion and testimony and all votes* of the members of the body, “*unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration*”;
 4. At least one member of the body, chief legal counsel, or chief administrative officer is *physically present* at the regular meeting location, “*unless unfeasible due to the health pandemic or emergency declaration*”; and
 5. All votes are conducted by roll call, so each member’s vote on each issue can be identified and recorded.
 - a. The DPO noted that actions that are typically taken by unanimous consent are still subject to this roll call vote requirement.

- C. **Quorum.** All members who attend by telephone or interactive technology are present for quorum purposes. Minn. Stat. § 13D.021, subd. 2.
- D. **Remote Monitoring.** If telephone or interactive technology is used to conduct a meeting, to the extent practical, the body shall allow a person to monitor the meeting electronically from a remote location. Minn. Stat. § 13D.021, subd. 3. The law used to allow the public body to require the person making such a connection pay for the documented additional cost that the body incurred as a result of the additional connection. The legislature removed this language in 2021, so the public body can no longer require this payment.
- E. **Notice.** If telephone or interactive technology is used to conduct a meeting, the public body must provide notice of the regular meeting location, of the fact that some members may participate by telephone or interactive technology, and of the details for monitoring remotely per paragraph D above. Minn. Stat. § 13D.021, subd. 4. Otherwise, the same notice requirements discussed earlier in section III apply to a regular, special, or emergency meeting that is conducted by telephone or interactive technology. Id.
- F. **Public Comment.** If *attendance at the regular meeting location is not feasible* due to the health pandemic or emergency declaration and the public body's *practice is to offer a public comment period at in-person meetings*, members of the public *shall be permitted to comment from a remote location during the public comment period* of the meeting, to the extent practical. Minn. Stat. § 13D.021, subd. 5.
- G. An advisory opinion from the DPO concluded that a board did not comply with Minnesota Statutes section 13D.021 when, solely in order to reach a quorum, a member participated by telephone at two meetings. Adv. Op. 18-018. Per section 13D.021, a public body may conduct meetings by telephone if certain conditions are met, the threshold requirement being that there is a health pandemic or declared emergency under chapter 12. Minnesota Statutes section 12.03, subdivision 1e, defines "declared emergency" as "a national security or peacetime emergency declared by the governor under section 12.31." Thus, the board could not conduct its meetings by telephone, under section 13D.021, unless it determined that it was warranted due to a health pandemic or declared emergency.
- H. Another advisory opinion from the DPO noted that there is currently not a mechanism in the OML for public body members to hold in-person meetings while limiting public attendance to electronic monitoring. Adv. Op. 21-003.

In that matter, a school board invoked its right to hold its meetings virtually under Minnesota Statutes section 13D.021 due to the COVID-19 pandemic and declared state of emergency. The board chair determined that in-person meetings were not practical or prudent because of the current health pandemic. Members of the public were limited to attending the meetings remotely. On four occasions, however, a quorum of the school board attended the meetings in person. The DPO concluded the school board did not comply with the OML when a quorum of the school board held in-person meetings while the public was limited to remote attendance. The presence of a quorum of the school board in person rendered the meetings in-person meetings, negating the option to meet remotely pursuant to section 13D.021. Thus, if a public body determines in-person meetings are not practical or prudent under section 13D.021, a quorum or more of the members cannot gather for the meeting in-person. Also, public bodies cannot decide that it is feasible for a quorum of the board to meet in-person, but unfeasible to have the public attend in person.

VI. Participation in Meetings by Interactive Technology

- A. **Conditions.** Members of a public body can attend and participate in meetings by *interactive technology* if certain conditions are met. Minn. Stat. § 13D.02, subd. 1(a).
1. All members of the body participating in the meeting, wherever their physical location, *can hear and see one another* and *can hear and see all discussion and testimony* presented at any location at which at least one member is present;
 2. Members of the public present at the regular meeting location *can hear and see all discussion and testimony and all votes* of the members of the body;
 3. *At least one member of the body is physically present* at the regular meeting location;
 4. All votes are conducted by roll call so each member's vote on each issue can be identified and recorded; and
 - a. Actions that are typically taken by unanimous consent are still subject to this roll call vote requirement.
 5. *Each location* at which a member of the body is present *is open and accessible to the public.*

- B. Location Not Open or Accessible to the Public.** A meeting satisfies the requirements of paragraph A above, even though a member of the public body participates from a location that is not open or accessible to the public (see paragraph A.5.), if the member has not participated more than three times in a calendar year from a location that is not open or accessible to the public, **and:**
1. **Military members.** The member is serving in the military and is at a required drill, deployed, or on active duty; **or**
 2. **NEW—Medical reasons.** The member has been advised by a health care professional against being in a public place for personal or family medical reasons. Minn. Stat. § 13D.02, subd. 1(b)(1)-(2). This clause used to only apply when a state of emergency had been declared under section 12.31, and expired 60 days after the removal of the state of emergency. Effective July 1, 2023, that limitation was deleted. Because this health care professional advice exception is no longer tied to times when a state of emergency exists, this exception will be somewhat more available.
- C. Quorum.** All members who attend by interactive technology are present for quorum purposes. Minn. Stat. § 13D.02, subd. 2.
- D. Remote Monitoring.** If interactive technology is used to conduct a meeting, to the extent practical, a public body must allow a person to monitor the meeting electronically from a remote location. Minn. Stat. § 13D.02, subd. 3. The law used to allow the public body to require the person making such a connection pay for documented marginal costs that the public body incurred as a result of the additional connection. The legislature removed this language in 2021, so the public body can no longer require this payment.
- E. Notice.** If interactive technology is used to conduct a meeting, the public body must provide notice of the regular meeting location and notice of any location where a member of the public body will be participating in the meeting by interactive technology, except for the locations of members participating pursuant to paragraph B above. Minn. Stat. § 13D.02, subd. 4. Otherwise, the same notice requirements discussed earlier in section III apply to a regular, special, or emergency meeting that is conducted by interactive technology. Id.
- F. Record.** The minutes for a meeting conducted by interactive technology must reflect the names of any members appearing by interactive technology

and state the reason or reasons for the appearance by interactive technology.
Minn. Stat. § 13D.02, subd. 6.

VII. Closing a Meeting

A meeting cannot be closed simply because private or confidential data will be discussed, unless one of the exceptions discussed below is met. So long as the meeting is not required to be closed, private data can be discussed in public without liability or penalty if the disclosure relates to a matter within the scope of the public body's authority and is reasonably necessary to conduct the public body's business. Minn. Stat. § 13D.05, subds. 1(a), (b).

A. Valid Reasons to Close a Meeting

1. Labor Negotiations

A meeting may be closed to discuss strategy for labor negotiations, but the closed meeting must be tape recorded and the tape retained for two years after the contract is signed. Minn. Stat. § 13D.03, subds. 1(b), 2(a)-(b). The recording must be available to the public after all contracts are settled for the current budget period. Id. subd. 2(b). The OML does not mandate how public bodies make recordings "available" to the public. Adv. Op. 21-004. The DPO stated public bodies may decide how to best implement this requirement but that posting the recordings on a website or providing access upon request certainly satisfies the requirement. Id.

A majority vote is required to close the meeting, and a written roll must be taken of the members and other persons present at the closed meeting. Id. subds. 1(b), 1(d). The written roll must be made available to the public after the closed meeting. Id. subd. 1(d).

2. Preliminary Consideration of Charges Against an Employee

A meeting must be closed for preliminary consideration of allegations or charges against an employee. Minn. Stat. § 13D.05, subd. 2(b). The meeting must be open if the employee requests that it be open. Id. If the meeting is closed, it must be tape recorded. Id. subd. 1(d).

If the public body concludes that discipline may be warranted as a result of the allegations or charges, future meetings related to the allegations or charges must be open. Id. subd. 2(b).

An advisory opinion from the DPO concluded that once a public body discusses replacing or otherwise removing an employee, it is clear that disciplinary action may be warranted. Adv. Op. 23-004. A city council closed a January meeting to discuss allegations against an employee. Although during the closed meeting, the city council members did not vote to remove the employee from her position, the council did discuss hiring a temporary replacement and theorized that the issues raised in the allegations or charges against the employee would disappear if the employee was no longer employed by the city. After closing the January meeting, the city council held three additional closed meetings (in February, May, and June) to discuss the allegations against this employee. The DPO determined it was improper to close the subsequent meetings—because the city council discussed replacing or otherwise removing the employee at the January closed meeting, the council had determined disciplinary action *may* be warranted and, as a result, all later meetings on that topic (the allegations against the employee) needed to be open to the public.

3. Performance Evaluations

A meeting may be closed to evaluate an employee’s performance. Minn. Stat. § 13D.05, subd. 3(a). The meeting must be open if the employee requests that it be open. Id. Before the meeting is closed, the employee must be identified. Id. If the meeting is closed, it must be tape recorded, and at the next open meeting, the public body must summarize its conclusions regarding the evaluation. Id. subds. 1(d), 3(a).

The DPO deemed the following statements to be insufficient to fulfill the public bodies’ statutory obligation to summarize their conclusions regarding the evaluations:

- a. “[The board] discussed the [the employee’s] strengths and weaknesses.”
- b. “As a result of that review, strengths were noted and areas of improvement were defined. The board developed goals regarding communication and leadership.”
- c. “Areas of growth were identified and [the employee’s] evaluation is an ongoing process.”
- d. Regarding an evaluation that was conducted at a workshop, “I wasn’t at the actual workshop because I was out of town. But I’ll

summarize what I think happened and you guys can affirm it. Basically we talked about [the City administrator's] performance, her strengths, weaknesses, where she needs improvement. Overall, I think it was satisfactory." Two council members responded, "Nope, that's about right" and "That's pretty close."

Adv. Op. 14-007.

An advisory opinion from the DPO concluded that this section 13D.05, subd. 3(a), (closing a meeting to evaluate an employee's performance) does not allow a public body to close meetings to generally discuss personnel issues, such as hiring or appointment decisions. Adv. Op. 22-008. A board closed a meeting under this statute to review and evaluate applications to select finalists who it would interview for a board vacancy. The board did not provide any information indicating that it closed the meeting to evaluate the performance of any individual subject to its authority. The DPO determined that the board violated the OML when it closed a meeting under section 13D.05, subd. 3(a), to review applications to appoint a new board supervisor.

4. Attorney-Client Privilege

A meeting may be closed if permitted by the attorney-client privilege. Minn. Stat. § 13D.05, subd. 3(b). The extent of the privilege for closing an open meeting, however, is not as broad as the privilege itself.

Generally, a meeting may be closed to discuss matters pertaining to pending or threatened litigation. A meeting cannot be closed to seek general legal advice that is basic to the deliberative process of any public body.

The Minnesota Court of Appeals has seemingly limited the ability to close meetings under the attorney-client privilege to only those circumstances where the public body can demonstrate that there is an absolute need to discuss the matter outside the public arena. See Prior Lake American v. Mader, 642 N.W.2d 729 (Minn. 2002).

5. Acquisition/Sale of Land or Personal Property

A meeting may be closed in conjunction with discussions surrounding the acquisition or sale of land or personal property, but detailed procedures must be followed. Minn. Stat. § 13D.05, subd. 3(c).

6. Security Briefing

A meeting may also be closed to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of that information would pose a danger to public safety or compromise security procedures or responses. Minn. Stat. § 13D.05, subd. 3(d). However, financial issues related to security matters must be discussed and all related financial decisions must be made during open session. Id.

Before closing the meeting, the public body must describe the subject to be discussed and refer to the facilities, systems, procedures, services or infrastructures to be considered during the closed meeting. Id. The closed meeting must be tape recorded, and the tape preserved for at least four years. Id.

7. Discussion of Certain Types of Data

Any portion of a meeting must be closed where the following types of data are discussed:

- a. Data identifying alleged victims or reporters of criminal sexual conduct, domestic abuse, maltreatment of minors or maltreatment of vulnerable adults.
- b. Active investigative data. See definition in Minn. Stat. § 13.82, subd. 7.
- c. Internal affairs data relating to allegations of misconduct of law enforcement personnel.
- d. Educational data, health data, medical data, welfare data and/or mental health data that are not public data under the Minnesota Government Data Practices Act and other specified statutes, and/or an individual's medical records under the Minnesota Health Records Act. Minn. Stat. § 13D.05, subd. 2(a).

B. Procedures for Closed Meetings

During the open portion of the meeting, the public body must state on the record the specific basis for closing the meeting and describe the subject

matter that will be discussed in the closed portion of the meeting. Minn. Stat. § 13D.01, subd. 3. The specific basis should not include any non-public data.

Materials reviewed in a closed meeting should not be distributed to the public. The meeting minutes should simply state that a closed meeting was held and the basis for closing the meeting.

No business can be conducted during a closed meeting – all business must be conducted when the public body reconvenes in open session.

VIII. Use of Social Media

Minnesota Statutes section 13D.065 states that the use of social media by members of a public body does not violate the OML so long as the social media use is limited to exchanges with all members of the general public. Note that for purposes of this section, email is not considered a type of social media. Apart from this exclusion, however, social media is not defined.

Section 13D.065 only applies when elected or appointed City officials are acting in their official capacities, not in their private capacities. Elected or appointed City officials' participation in private social media groups is a concern if there is a quorum or more members of the public body discussing, deciding, or receiving information on issues relating to the official business of that governing body.

Practically, this means that members of a public body may comment on issues on a blog, Instagram, X, or on Facebook without fear of violating the OML so long as the exchanges are with all members of the general public, which requires the general public to have access to that particular type of social media.

Public body members should refrain from engaging in discussions about official business over social media that include a quorum or more of public body members.

IX. Penalties for Violations

A. Civil Penalty

Each person who intentionally violates the OML can be fined up to \$300 for each violation, and the penalty cannot be paid by the municipality. Minn. Stat. § 13D.06, subd. 1.

B. Removal

If a member of a public body is involved in three separate violations of the OML, which are proven in three separate actions, the member could be removed. Minn. Stat. § 13D.06, subd. 3(a); Brown v. Cannon Falls Twp., 723 N.W.2d 31 (Minn. App. 2006).

C. Costs and Attorneys' Fees

A court may award up to \$13,000 for the plaintiff's costs and attorneys' fees. Minn. Stat. § 13D.06, subd. 4(a). The municipality may, but is not required to, pay the award. Id. subd. 4(c).

D. Defense Costs

A municipality is not required to reimburse members for the cost of defending an OML claim under the Municipal Tort Liability Act because it is not an action for damages. Minn. Stat. § 466.07; Kroschel v. City of Afton, 512 N.W.2d 351 (Minn. App. 1994) rev'd on other grounds, 524 N.W.2d 719 (Minn. 1994).

CONFLICTS OF INTEREST

I. Statutory Conflict of Interest

Minnesota Statutes section 471.87 specifies that a public officer who is authorized to take part in any manner in making any sale, lease, or contract in that officer's official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom. This section applies to city officials, and would include contracts involving the purchase or sale of any property by or to the city (a direct conflict of interest). See also Red Wing City Code § 2.15, subd. 2.

The statute does not specify that abstention from voting would remedy what would otherwise be a conflict of interest. Op. Atty. Gen. 90E-6 (Jun. 15, 1988); Op. Atty. Gen. 90-E-5 (Nov. 13, 1969). Instead, the language is "who is authorized to take part in any manner in making . . ." Minn. Stat. § 471.87.

Violation of the statute is a gross misdemeanor, but all elements must be present: 1) the interest must be voluntary; 2) the interest must be financial; and 3) there must be a sale, lease or contract.

Examples of transactions that have been prohibited include:

- A. A public body's contract with a newspaper in which one member was an interested party.
- B. Compensating a member of a county welfare board for services as an appraiser.
- C. County's contract for testing cattle with a commissioner who was a veterinarian.

There is a list of exceptions in section 471.88. Refer to the list when questions arise. In these circumstances, the interested officer is to disclose their interest at the earliest stage and abstain from voting or deliberating on any contract in which they have an interest. The exceptions only apply when a unanimous vote of the remaining members of the public body approves the contract. The following are some of the exceptions:

- A. The designation of an official newspaper in which a member is an interested party, when it is the only newspaper complying with the statutory requirements relating to the designation.
- B. A contract with a cooperative association of which a member is a share/stockholder but not an officer or manager.
- C. A contract for which competitive bids are not required by law.¹
- D. The public body may apply for and accept a state or federal grant for housing, community, or economic development in which a member may benefit, if the member abstains from voting on measures related to the grant.
- E. Loans or grants to a member from a local development organization. If a member applies for a loan or grant, the member must disclose as part of the official minutes of a public meeting of the governmental unit that the member has applied for a loan or grant.

¹ If the City enters into this type of contract, the procedures in Minnesota Statutes section 471.89 must still be followed, or the contract may be void. Section 471.89 requires that the City authorize the contract in advance by adopting a resolution setting out the essential facts and determining that the contract price is as low or lower than the price at which the commodity or services could be obtained elsewhere. In addition, the interested officer must file an affidavit with the clerk of the governing body providing information regarding the contract and the officer's interest in the contract.

II. Common Law Conflict of Interest

Conflicts of interest under the common law are broader than the statutory conflicts of interest and may exist where a statutory conflict of interest does not. The purpose of the common law rule is to ensure that a decision will not simply be an arbitrary reflection of a member's own selfish interests. Lenz v. Coon Creek Watershed Dist., 153 N.W.2d 209, 219 (Minn. 1967). See also Red Wing City Code § 2.15, subd. 2.

A conflict of interest exists under the common law when a public official has any "direct interest" in the outcome of a matter before the public body. See, e.g., Lenz, 153 N.W.2d 209, 219; E.T.O., Inc. v. Town of Marion, 375 N.W.2d 815 (Minn. 1985). Courts have generally interpreted a "direct interest" as a financial interest.

The following factors are considered by courts to determine whether a conflict of interest exists:

- A. The nature of the decision to be made;
- B. The nature of the pecuniary interest;
- C. The number of interested officials participating in making the decision;
- D. The need, if any, to have interested officials make the decision; and
- E. The other means available, if any, to ensure the interested officials will not act arbitrarily to further their own interests (e.g., the opportunity for review). Lenz, 153 N.W.2d 209, 219.

If a common law conflict of interest exists, the member is prohibited from voting on the matter. However, unlike statutory conflicts of interest, a common law conflict of interest is cured by abstaining from a vote on the matter. See Op. Atty. Gen. Dec. 5, 2002; Op. Atty. Gen. 90E-6 (Jun. 15, 1988).

III. How to Avoid Conflicts of Interest

Public officials should expect to be the subject of regular public scrutiny. As such, public officials must accept restrictions on their conduct that might be viewed as burdensome to the ordinary citizen. For example, public officials must avoid impropriety and the appearance of impropriety. While there is no test for what constitutes the appearance of impropriety, ask whether a person aware of the facts might reasonably entertain a doubt that the public official would be able to act with integrity, impartiality, and competence.

There are many statutes dealing with ethics in government, and all of them seek to ensure public confidence in public officials is not eroded by irresponsible or improper conduct by public officials. The Minnesota Campaign Finance and Public Disclosure Board provides advisory opinions on matters dealing with ethics. See Minn. Stat. § 10A.02, subd. 12(a). Selected advisory opinions may be found online at www.cfboard.state.mn.us/ao.

ACCEPTANCE OF GIFTS

I. General Prohibition

A local official may not accept gifts from a person or a representative of a person or association that has a direct financial interest in decisions the official is authorized to make. Minn. Stat. §§ 471.895, 10A.071. A gift is defined as money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, which is given and received without the giver receiving consideration of equal or greater value in return. Minn. Stat. § 10A.071, subd. 1(b). See also Red Wing City Code § 2.15, subd. 2.

II. Exceptions

A local official may accept the following:

- A. “Contributions” – defined as anything of monetary value given or loaned to a candidate or committee for a political purpose. A contribution does not include a service provided without compensation by an individual. See Minn. Stat. § 211A.01, subd. 5.
- B. Services to assist in the performance of official duties, including, but not limited to, providing advice, consultation, information and communication in connection with legislation and services to constituents.
- C. Services of insignificant monetary value.
- D. A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause.
- E. A trinket or memento costing \$5 or less.
- F. Informational material of unexceptional value.

- G. Food or a beverage given at a reception, meal, or meeting away from the official's place of work by an organization before whom the official appears to make a speech or answer questions as part of a program.
- H. Gifts given because of a recipient's membership in a group, so long as the majority of the group members are not local officials and other members of the group are given or are offered equivalent gifts.
- I. Gifts given by a family member, unless the gift is given on behalf of someone who is not a family member.
- J. Food or beverage given to national or multistate conference attendees at a reception or meal. The majority of dues paid to the national or multistate organization of governmental organizations or public officials must be paid from public funds and an equivalent gift must be given or offered to all other attendees. Minn. Stat. § 471.895, subd. 3.

SWM: 258945

City of Red Wing City Council and City Advisory Boards and Commissions Code of Conduct

City of Red Wing City Code Section 2.15: Code of Conduct.

Purpose.

The Mayor and City Council of the City of Red Wing determines that a code of conduct for its members, as well as the members of the various advisory boards and commissions of the City of Red Wing, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the city council hopes to promote the faith and confidence of the citizens of Red Wing in their government and to encourage its citizens to serve on its council and boards and commissions.

Standards of Conduct.

No elected official or a city advisory board or commission member may knowingly:

- a. Violate the open meeting law.
- b. Participate in a matter that is before the city council or relevant board that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minnesota Statute 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the city council or committee.
- h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the city council has authorized the disclosure.

Except as prohibited by the provisions of Minnesota Statute Section 471.87, there is no violation of item b. of this section for a matter that comes before the council, board, or commission, if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the

discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with an elected or appointed official under the circumstances described under Minnesota Statute Section 471.88, if proper statutory procedures are followed.

Complaint, Hearing.

Any person may file a written complaint with the City Clerk alleging a violation of the aforementioned standards of conduct. The complaint must contain supporting facts for the allegation. The city council may hold a hearing after receiving the written complaint or upon the council's own volition. A hearing must be held only if the city council determines (1) upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally-recognized conflict of interest, and (2) that the complaint has been lodged in good faith and not for impermissible purposes such as delay. The city council's determination as to whether to hold a hearing must be made within 30 days of the filing of the allegation with the city clerk, if possible. The council may grant an extension to this 30-day timeline if additional time is needed to adequately investigate the complaint. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the city council's determination. The purpose of the hearing is to provide the person accused with the opportunity to be heard. If, after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may, at the same meeting or a future meeting, censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, remove an appointed member of a board or commission from office, and/or any other action within the council's authority that the council deems appropriate.



Board, Commission, and Committee Policies

Section 1: Authority to Establish Boards, Commissions, and Committees

The City of Red Wing has a variety of bodies that provide important roles within local government. These bodies offer the opportunity for more people to participate in the democratic process and focus on areas important to them. The purpose of the boards, commissions, and committees is to advise the City Council on matters that fall within each group's area of concentration. The following is a list of all appointed bodies within the City of Red Wing government.

1. *State-Mandated Commission.* Minnesota law dictates that every city organized as a Home Rule City, such as Red Wing, must have a Charter Commission.
 - Charter Commission
2. *Local Advisory Boards and Commissions.* The City Council, through the Charter, has the authority to establish additional advisory boards and commissions as it deems appropriate. The following are the bodies currently established:
 - Advisory Planning Commission
 - Arts and Culture Commission
 - Heritage Preservation Commission
 - Human Rights Commission
 - Sister Cities Commission
 - Sustainability Commission
3. *Boards of Authority.* The City's two authority boards were created by a City Council resolution. They have taxing authority and fall under the guidelines of the state's empowering statutes.
 - Housing and Redevelopment Authority Board (HRA)
 - Port Authority Board

- a. The HRA and Port Authority can set Rules of Order and Procedures that are different than the City Council. Members must approve their rules by a majority vote and keep those rules on file.
 - b. The HRA and the Port Authority can receive funds on their own behalf without City Council approval.

4. *T. B. Sheldon Auditorium Board.* The City received the T. B. Sheldon Theatre as an estate gift, and through the terms of the gift, the theater must have a board. This board was created through a City ordinance and is commonly referred to as the “Sheldon Board.”
 - a. The Sheldon Board can set Rules of Order and Procedures that are different than the City Council. Members must approve their rules by a majority vote and keep those rules on file.
 - b. The Sheldon Board can receive funds on its own behalf without City Council approval.

5. *Library Board.* The Library Board governs the operations of the Library and, therefore, has more authority than other advisory boards and commissions.
 - a. The Library Board may adopt library policies by resolution and has final authority in the library’s material selection and programming.
 - b. The Library Board may, with the consent of the Council, accept any gift, grant, or bequest made or offered for Library purposes.
 - c. Additional details are outlined in the City’s Charter.

6. *Advisory Committees.* These government bodies meet to recommend policy guidelines to the City Council and serve as a forum for resident input on subjects related to the committee’s area of focus. However, advisory committees have less regulation, authority, and structure than boards and commissions.
 - Airport Advisory Committee
 - Harbor Advisory Committee
 - a. These groups meet only as needed, generally once or twice per year.
 - b. A member of City staff will schedule and convene the meetings.
 - c. Notices, minutes, and recordings will not be done, and the committee does not need a Council liaison.
 - d. City staff will maintain membership rosters on the City’s website.

Section 2: Membership

1. Membership Composition: The number of members and the residency of members varies per governmental body. Details are listed below.
 - a. *Advisory Planning Commission, Heritage Preservation Commission, Port Authority, and Sheldon Board.* There are seven members on each of these commissions, and all members must be City of Red Wing residents.
 - b. *Arts and Culture Commission.* This body has a minimum of seven and a maximum of 11 members. Most must be residents of Red Wing; however, up to two members may be residents of Goodhue County or Pierce County.
 - c. *Charter Commission.* The Charter Commission consists of not less than seven and no more than 15 members. All must live within the city limits of Red Wing.
 - d. *Human Rights Commission, Sister Cities Commission, and Sustainability Commission.* The Human Rights Commission has 11 members, and the Sister Cities and Sustainability Commissions each have 15 members. Members of these three commissions must live within the boundaries of the City of Red Wing or the broader boundaries of Independent School District 256. The number of members who live outside Red Wing's limits must not constitute a quorum or more.
 - e. *Library Board:* The Library Board has nine members. Most must be residents of the City of Red Wing, except one member may be a nonresident who lives in Goodhue County, if the county financially contributes to the Library.
 - f. *Housing and Redevelopment Authority (HRA):* The HRA Board is made up of seven members, and all must be residents of Red Wing.
 - g. *Airport Advisory Committee:* This committee consists of seven members. Four members must be residents of Red Wing. One member must be a resident of Goodhue County who is also either a taxpayer of Red Wing or a hangar lessee. Two members must be residents of Pierce County, with preference given to residents of Isabelle Township or Trenton Township.
 - h. *Harbor Advisory Committee:* This committee consists of up to seven members. Most members must be residents of the City of Red Wing, except one member may be a nonresident who owns real property in the city or has a slip at a City-owned marina.

2. Length of Residency

All applicants must have lived in the City of Red Wing for at least six months. If another county or area of residency is required or allowed, the applicant must have lived within those boundaries for at least six months.

3. Confirmation of Residency

a. Administration staff will confirm the residency of each applicant through one of the following means:

- Goodhue County Public Property Tax Records
- Utility billing
- State ID
- Affidavit signed by a Red Wing resident that includes the address of the individual signing the affidavit, the applicant's address, and the affiant's sworn statement that the applicant has lived in Red Wing for at least six months.

b. If City staff are unable to confirm an applicant's residency through these methods, staff may look at additional factors as noted in Chapter 2, Section 2.08, Subd. 4 of the City Code. That includes but is not limited to other evidence that demonstrates the individual lives within the city limits. The applicant has the burden to provide proof of residency to staff.

4. Advisory Members

- a. Boards or commissions may have adult and/or student advisory members. Advisory members will be appointed by the Mayor and confirmed by the City Council to serve terms consistent with the board or commission they are appointed to.
- b. Advisory student appointees will serve an annual term that begins June 1 and ends May 31.
- c. Advisory members are non-voting members, are not counted for purposes of a quorum, and may live outside the city limits.

5. Ex-Officio Member

a. The Council Administrator serves as an ex-officio member on all boards, commissions, and authorities, and as such, is not counted for the purpose of determining a quorum and does not have the right to vote.

6. Membership Lists

a. City Administration staff will maintain membership lists for all boards and commissions and make them available on the City's website. These lists will also

contain appointment and reappointment dates, term expiration dates, and the appointing government body, if applicable.

Section 3: Terms

1. Board and commission members can only serve on a single board or commission at a time, with the exception of the Charter Commission. Charter Commission members can simultaneously serve on one additional City board or commission.
2. Advisory committee members may serve on one board or commission at the same time that they serve on an advisory committee. This is because advisory committees have much less regulation, authority, and structure (see page 2).
3. Terms for most boards and commissions are three years expiring on December 31, and members can serve two consecutive terms on the same board or commission. Exceptions to that rule are listed below.
 - a. Charter Commission terms are four years, per City Code. Members may serve up to two consecutive terms.
 - b. Housing and Redevelopment Authority terms are five years, as established by state law. Members may serve up to two consecutive terms.
 - c. Sheldon Board terms are five years, per city ordinance. Members may serve up to three consecutive terms.
 - d. Advisory student appointee terms are one year, from June 1 through May 31. Students may serve up to five terms.
4. When a member has reached the maximum number of consecutive terms allowed, the member must come off the board or commission and not serve in any capacity on that body for at least 12 months. After 12 months, previous members can be appointed again to the same body and serve the permitted number of consecutive terms.
5. If a board or commission member chooses to serve on a different board or commission at the completion of their term, there is no waiting period.
6. Board or commission members may be appointed to serve a partial term. For boards and commissions with three-year terms, a partial term is defined as fewer than 18 months. A term of 18 months or more will be considered a complete term. Boards and commissions with longer terms will define partial terms as half of the standard term.

7. Individuals can hold the position of Chair or Vice Chair for a maximum of two consecutive years. After a one-year hiatus, a person may hold either position again for a maximum of two consecutive years.

Section 4: Member Applications and Appointments

1. Applications

- a. Persons interested in serving on a board, commission, or committee must complete an application. Digital applications and printable applications are available on the City's website at www.red-wing.org. Digital applications can be submitted online. Completed paper applications can be mailed or delivered to City Hall. Hard copies can be made available upon request.
- b. Applications will be forwarded to the Mayor or responsible party for consideration and will be kept on file for one year. After one year, interested applicants must reapply.

2. Appointments

- a. Per City Charter, the Mayor recommends people to be appointed to boards and commissions. The City Council then approves or denies those recommendations, based on a majority vote.
- b. Exceptions to this rule are the Charter Commission and the Port Authority.
 - (1) Charter Commission: Per Minnesota Statute Section 410.05, Subdivision 1, the City Council can recommend to the Chief Judge of the First Judicial District the appointment of up to seven members, and the Charter Commission can recommend to the judge the appointment of up to eight members.
 - (2) Port Authority: Per Minnesota Statutes, Section 469.050, subd. 3 and subd. 4, five members are residents recommended by the Mayor and approved or denied by the City Council. Two members are City Council members who are appointed by City Council resolution.
- c. It is recommended that the Mayor contact each individual who applies for a board or commission.
- d. If a board or commission member is seeking reappointment but will not be recommended by the Mayor for a second term, the Mayor must either notify that person or direct City staff to notify the person.

Section 5: Subcommittees of a Board or Commission

1. Any board or commission may form subcommittees that can meet outside of regular meetings, as long as the subcommittees are less than a quorum of members.
2. Subcommittees cannot make decisions on behalf of the board or commission.
3. Subcommittees can meet and communicate freely. Subcommittees do not need to notice their meetings or keep minutes.
4. Subcommittees will provide verbal reports on their activities during the next regular board or commission meeting. Subcommittees may include community members who are not members of the board or commission.
5. Staff liaisons will not schedule, attend, or follow up on subcommittee meetings.

Section 6: Organizational Meetings

1. At the first regular meeting each year, every board and commission will do the following:
 - a. *Swear In New and Renewing Members.* The Mayor will swear in new and renewing members. In the Mayor's absence, the Council liaison will do this. In the Mayor's and Council liaison's absence, a City staff member who is a notary public may swear in members. Certificates, once signed, will be filed with the City Clerk. It is also an option for the Mayor to swear in new or renewing members at City Hall sometime before a meeting, especially if the Mayor or the member to be sworn in will not be attending the meeting.
 - b. *Elect a Chairperson and Vice Chairperson.* Boards and commissions can elect or appoint additional positions, such as a pro tem, secretary, or committee chair. Individuals can hold the position of Chair or Vice Chair for a maximum of two consecutive years.
 - c. *Review the Annual Budget,* if applicable.
2. Following the City Council's adoption of its annual Rules of Order and Procedures in January, boards and commissions will do the following:
 - a. *Adopt the Rules of Order and Procedures.* The City Council adopts its annual Rules of Order and Procedures at its organizational meeting each January. Following that adoption, boards and commissions will be asked to adopt the Board and Commission Rules of Order and Procedures that reflect the Council's guidelines. A board or commission may make small modifications to this document

per a majority vote, and City Council must approve the modifications. If a board or commission does not adopt any rules of procedure, it will follow the City's Board and Commission Rules of Order and Procedures, insofar as practical.

Section 7: Board and Commission Orientation and Training

1. In the first month of appointment, new members will receive the following:
 - Orientation Materials
 - Current Roster of Members
 - Board and Commission Rules of Order and Procedures
 - Board, Commission, and Committee Policies
2. Each year the City will provide board and commission training for all members on pertinent public laws and/or policies, procedures, or issues.
3. The City will determine the training contents and how and when the training will take place.

Section 8: Meeting Materials

1. Minutes, agendas, and supporting materials for all regular meetings, special meetings, and workshops will be made available to all board and commission members at least three days (72 hours) before the meeting.
2. Board and commission members may be issued electronic devices for agenda preparation/distribution efficiency. It will be up to the City to determine which boards and commissions are issued devices. Distribution will depend on the size of the agenda and materials, the frequency of meetings, and the budget.

Section 9: Quorum

1. A quorum of voting members (a majority) must be present to hold a regular or special meeting. If a quorum of members is not present at the designated start time, the chair will cancel the meeting.
 - a. Staff liaisons may choose to email members a week in advance to see if a quorum will be available on the scheduled meeting date. If it is clear that a quorum will not be in attendance on that date, the meeting may be canceled ahead of time.
 - b. Some boards and commissions allow virtual attendance and voting. See Section 15 of this document for details.
2. Workshops do not require a quorum of members.

Section 10: Time Limits, Attendance, and Absences

1. All meetings and workshops of boards, commissions, and committees should be kept to a maximum of two hours. This is to respect the time commitment of the members. Members are expected to be on time and stay for the duration of the meeting, as long as that falls within the two-hour limit.
2. Board and commission members are expected to attend the majority of regular and special meetings and workshops. However, it is understood that unavoidable conflicts occur, especially with boards and commissions that are very active and/or have a significant workload, which may require special meetings.
3. Board and commission members who have unavoidable absences shall contact the staff liaison to request an excused absence. Excused absences will be granted to all members who contact the staff liaison before the meeting.
4. The staff liaison will keep an attendance roster and monitor absences. The staff liaison will contact members who miss three consecutive unexcused meetings and/or miss 50% of regularly scheduled meetings and workshops in 12 months (whether those absences are excused or not).
5. If attendance issues persist, a board or commission member may be removed by a two-thirds vote of the City Council.

Section 11: Locations for Meetings and Events

1. All regular and special board and commission meetings will take place in the City Council Chambers or virtually, if allowed, as determined by City policy (see Section 15).
2. Boards and commissions may use City facilities for educational purposes at no cost. To do so, the board or commission should reserve the facility through their staff liaison. A board or commission may reserve City facilities for advocacy purposes only upon prior City Council approval.

Section 12: Transparency and Accessibility to the Public

1. Access to the Public
 - a. All meetings and workshops must allow access to the public, either virtually or in person.

- b. Notice of all meetings and workshops must be posted 72 hours in advance of the meeting.
- c. Minutes of each meeting and workshop must be prepared and made available to the public.

2. Recordings

- a. All regular and special board and commission meetings will be recorded. The meetings will be broadcast live on Channel 6 (the local government access channel) and streamed live on the City's website. Recordings of past meetings will also be rebroadcast on Channel 6 and may be viewed on the City's website.
- b. Board and commission meeting recordings are available for two years. City Council meeting recordings are available for five years.
- c. All board and commission workshops will be audio recorded and made available to the public.
- d. If a board or commission meeting in which action is to be taken is moved off-site, the meeting shall be audio recorded, unless approved by the City Council or if it is physically impossible or impractical to do so.

Section 13: Planning

- 1. In the first quarter of the year, each board and commission will update their revolving five-year work plan and highlight their upcoming year's priorities. These highlighted items will act as the board or commission's annual work plan.
- 2. In the first quarter of the year, members will also discuss any anticipated funding desired for the following year. Educational opportunities such as conferences, programs, or training are permissible budget items. After a majority of members adopt the five-year plan, the staff liaison will forward those budget requests to the City Council for consideration in its next annual budget.
- 3. In the last quarter of the year, boards and commissions will consider possible changes and additions to their five-year work plan and discuss priorities for the following year. This updated plan will be voted on by the board or commission early in the new year.

Section 14: Communication Outside of Meetings and Workshops

The protocols below are best practices and policies of the City of Red Wing for all boards, commissions, and committees.

These protocols are part of the state's Open Meeting Law, and the following bodies are required by the state to follow them: the Charter Commission, Heritage Preservation Commission, HRA, Port Authority, and Sheldon Board.

Red Wing's advisory boards, commissions, and committees are not subject to the state's Open Meeting Law because these bodies cannot make decisions on behalf of the City or City Council, and the meetings do not consist of a quorum or more of elected leaders. For these bodies, the protocols are not mandated by the state but are required by Red Wing's local policy. These groups are the Advisory Planning Commission, Airport Advisory Committee, Arts and Culture Commission, Library Board, Harbor Advisory Committee, Human Rights Commission, Sister Cities Commission, and Sustainability Commission.

1. *Gatherings*: Most gatherings of board or commission members outside of a meeting or workshop must be less than a quorum unless noticed accordingly. However, chance gatherings and social gatherings are permitted. Please note that even at a chance or social gathering, though, a quorum of members may not discuss or receive information on official board or commission business.
2. *Serial Communications*: Serial communications are prohibited. Serial communications are defined as communication between members that initially goes to less than a quorum of members, but when all participants of that communication are considered, it has reached a majority. Examples are an email conversation that eventually spreads to a quorum of members, or a verbal conversation that travels from one member to another member to another until that conversation reaches more than a quorum.
3. *All-Email Communications*: A voting board or commission member may not send emails or other communication to all of the other members. The only person who can email an entire board or commission is the staff liaison. This is to ensure that members, either advertently or inadvertently, are not discussing or making decisions in private instead of in front of the public. When a member wants to communicate with all other members, the person should email the staff liaison, who can then email the entire body, at regular periods between meetings (for example, once a week, when necessary).

Section 15: Virtual Meetings and Attendance

1. Members of advisory boards and commissions may attend meetings virtually and may also vote virtually without being bound to the limits of the Open Meeting Law. These

bodies are the Advisory Planning Commission, Airport Advisory Committee, Arts and Culture Commission, Library Board, Harbor Advisory Committee, Human Rights Commission, Sister Cities Commission, and Sustainability Commission.

The City Council allows this because advisory boards and commissions cannot make decisions on behalf of the City or Council, and board and commission meetings do not consist of a quorum or more of elected leaders.

2. Other government boards and commissions, per their authorizing resolutions, must abide by the Open Meeting Law related to virtual meetings, just as the City Council does. These bodies are the Charter Commission, Heritage Preservation Commission, HRA, Port Authority, and Sheldon Board.

Members of these bodies can attend and participate in meetings virtually, as long as all conditions are followed as outlined in Minnesota Statute 13D.02, subd. 1(a). Members who wish to attend virtually should consult with their staff liaison, who can help ensure compliance with the requirements.

Section 16: Gifts and Payments for Services

1. Gifts
 - a. Members should not accept gifts from the public with the exception of the Sister Cities Commission. The Sister Cities Commission and its members can accept gifts from Red Wing's sister cities or their delegates.
2. Payment for Services
 - a. Advisory board and commission members will receive no compensation for service to the City.
 - b. Authority boards can determine compensation without City Council authorization.

Section 17: Role of the Staff Liaison

1. The Council Administrator appoints a staff liaison to each board and commission.
 - a. Some staff liaison jobs are tied to and within the scope of a City staff position. In these cases, the liaison duties are part of that staff member's job description. For example, the Library Director serves as the staff liaison to the Library Board.
 - b. Other staff liaisons take on a board or commission as an extra duty outside of their regular job responsibilities. In these cases, the staff liaisons are expected to spend 10 hours per month on board and commission duties. These liaisons will be paid

an annual amount, as agreed upon in the annual budget, and payments will be distributed monthly. Board and commission members should be mindful of this 10-hour per month time constraint and utilize staff liaison time accordingly.

2. Each staff liaison will be provided with a job description. The general duties and guidelines of a staff liaison are listed below.
 - a. Attend all of the assigned board or commission meetings. If that is not possible on occasion, the liaison must find a staff replacement to attend the meeting.
 - b. Provide notes to the assigned minute-taker so minutes may be kept. This includes a record of attendance, time of the meeting, vote tallies, budget items, areas for follow-up, and other important information, as needed.
 - c. File approved minutes electronically in Laserfiche.
 - d. Work with the chair of the board or commission to create the agenda for the monthly meeting and/or workshop.
 - e. Distribute the agenda and minutes at least three days (72 hours) prior to the board or commission meeting.
 - f. Provide support and information to the board or commission, but do not participate in the debate of issues or vote on any issues.
 - g. Get the board or commission's action items to the City Council Agenda Committee in a timely manner. The Agenda Committee decides if and when the action item will go on a City Council agenda. The staff liaison will also communicate back to the members the status of the action item.
 - h. Write City Council staff reports related to the commission's action items that come before the Council.
 - i. Process all financial transactions, including reimbursements and payment authorizations.
 - j. Inform the Administration staff of all regular meetings, special meetings, and workshops. Every effort will be made not to schedule meetings that conflict with other City meetings or other board and commission meetings.
 - k. Work with the Administration staff to ensure that all meeting notices are posted and distributed a minimum of 72 hours before the start of the meeting.

- I. Ensure the City website has the most updated information related to the membership roster, and other information as needed.
3. All work projects anticipated by the board or commission must be approved by the staff liaison's supervisor.

Section 18: Role of the Council Liaison

1. The Council President will appoint Council members to serve as liaisons to all boards and commissions. Council members are not voting members of boards and commissions, with the exception of the Port Authority.
2. The appointments will occur at the first meeting of the regular City Council meeting following the organizational meeting. The appointments can be changed by the Council President.
3. Council liaisons are expected to follow the guidelines listed below.
 - a. Council liaisons are expected to sit at the table of the board or commission.
 - b. Council liaisons are expected to be a resource for board and commission members during their meetings, participate in the discussion, and offer suggestions on how to work effectively with the City Council.
 - c. Council liaisons should not steer board or commission decisions in a specific direction or predict which way the Council will vote on decisions affecting the board's or commission's work.
 - d. Council liaisons are expected to relay issues to the City Council during the "Board and Commission Communication" portion of the Council meeting, based on their discretion or at the request of the staff liaison or board or commission chair.

Section 19: Education and Advocacy

1. Education
 - a. Each board and commission may educate the public and may take a specific position on issues that fall within their mission statement. Positions of boards and commissions may or may not be adopted by the City Council.
 - b. Boards and commissions may use City funds for the purpose of educating the public, if funds are available in the board or commission's budget. In educating the

public, boards and commissions must present the information as a neutral educator and refrain from any type of endorsement of a certain viewpoint.

2. Advocacy

- a. Unless the City Council provides express permission, any advocacy position of a board or commission may not be portrayed as the position of the City Council or the City of Red Wing.
- b. Boards and commissions cannot use City funds to advocate a position on any issue without City Council approval.

Section 20: Use of City-Based Logos and Media

1. City Logos: Boards and Commissions may not create or use unique logos without obtaining a majority vote of the board or commission and authorization from the City Council. Members must speak to their staff liaison and consult the City of Red Wing Logo Guide to comply with the requirements.
2. City Social Media Accounts: Most boards and commissions are not allowed to create any social media accounts.
 - a. If a board or commission wishes to share information publicly on a social media site, the staff liaison or chair can contact the City's Communication Coordinator to share information on the City's social media platforms.
 - b. Exceptions: The Sister Cities staff liaison maintains a Sister Cities social media site. In addition, City staff of the Public Library and Sheldon Theatre also maintain their own social media accounts, which the pertinent boards can utilize through their staff liaisons.

Section 21: Private Use of Social Media

The City of Red Wing respects the rights of its board and commission members to use, post on, publish, and maintain personal websites, blogs, and social media websites and accounts. The City also expects members to adhere to the following guidelines:

1. Board, commission, and committee members should act in a sensible manner regarding the content and comments they post, publish, disclose, or share on websites, the internet, and social media, especially when it references or relates to the City or its employees, operations, or property.

2. Members are personally responsible for the content they publish in a personal capacity on the internet or any form of social media platform. Members are strongly discouraged from identifying their role or affiliation with the City when responding to or commenting on websites, blogs, or social media posts with their personal opinions or views.
3. When a member's online or social media posts, comments, content, or profile identifies them as a City volunteer, or a person could reasonably expect that someone can identify them as a City volunteer, the member is strongly encouraged to do the following:
 - a. State or imply that they are not speaking for, or on behalf of, the City of Red Wing or are authorized to do so, or give the impression that the views expressed are those of the City of Red Wing.
 - b. Refrain from publishing material or comments as a board or commission member that are false, misleading, harassing in nature, or may cause injury to another person, organization, association, or the City's reputation.

Section 22: Legal Counsel

1. The City Attorney will be the legal counsel to each board and commission unless specifically authorized by the City Council to seek outside legal aid.
2. Per state statute, the Charter Commission can elect to spend up to the greater of .07 percent of the City's current certified general property tax levy, or the Charter Commission can elect to spend up to the limits stated in state statute to employ an attorney and other personnel to assist in amending or revising the City Charter.
3. The HRA, Port Authority, and Sheldon Board can elect to have a separate attorney.