

# *City of Hugo*



## DATA PRACTICES AND RECORDS RETENTION SCHEDULE

As of February, 2008

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# *City of Hugo*

## DATA PRACTICES AND RECORDS RETENTION SCHEDULE

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## 1.0 **Purpose and Intent**

The Minnesota Government Data Practices Act (MGDPA) sets out certain requirements relating to the right of the public to access government data and the rights of individuals who are the subjects of government data. The Act is mandated by the State of Minnesota to all local government agencies and businesses, firms, or other entities which contract with those government agencies.

Minnesota Statute § 15.17 mandates cities to adopt and use a records retention schedule to retain and properly destroy data that is collected.

It is the purpose of this document to establish a guide and tool for the employees of the City as questions arise relating to the Minnesota Government Data Practices Act (MGDPA) and Retention of said documents collected. This document will need to be reviewed yearly for accuracy as changes occur at the State level.

For detailed and most current information please refer to the updated State Statute relating to Data Practices and Records Retention, chapter 13 and 15 respectively.

## 2.0 **Definitions**

- 2.1 **Commissioner:** The commissioner of the Department of Administration.
- 2.2 **Confidential Data on Individuals:** Data which is not public by statute or federal law and is not accessible by the individual subject of that data.
- 2.3 **Data not on Individuals:** Government data not on individuals.
- 2.4 **Data on Individuals:** Government data in which any individual is or can be clearly identified as the subject of that data.
- 2.5 **Designee:** Any person designated by a responsible authority to be in charge of government data, and can receive and process requests for government data. Must be a city employee.
- 2.6 **Government Data:** All data collected, created, received or maintained, regardless of form.
- 2.7 **Individual:** A living human being.
- 2.8 **Not Public Data:** Government data classified by statute, federal law, or temporary classification as confidential, private, or nonpublic.
- 2.9 **Nonpublic Data:** Data not accessible to the public
- 2.10 **Parent:** Legal guardian of a juvenile data subject.

- 2.11 **Private Data**: Individual data that is not public and only accessible to the individual of that data.
- 2.12 **Protected Nonpublic**: Not available to the public or the data subject.
- 2.13 **Responsible Authority**: Individual designated by the governing body as the individual responsible for the collection, use, and dissemination of any data on individuals, government data, or summary data.
- 2.14 **Summary Data**: Statistical records and reports from data on individuals which the individuals are not and cannot be identified.

### **3.0 Responsible Authority**

Under the MGDPA cities are required to appoint a single employee as the city's responsible authority. This is to be done by resolution and must include the specific name of the individual. Simply stating that the power resides within the office of city clerk or administrator is not sufficient under the current Statute.

The responsible authority may have designees and must appoint them by written order.

#### **3.1 Duties of the Responsible Authority:**

- a. **Classify, Maintain, and Secure Data**: Know the data on both individuals and non-individuals and whether it is Public, Private, Confidential or Public, Nonpublic, and protected nonpublic respectively.
- b. **Educate personnel and designees**: Yearly, review new statutes and inform other city employees.
- c. **Data collection**: Make sure the city is not collecting unnecessary data from individuals and use a Tennessee warning when collecting data to inform individuals.
- d. **Follow the City's adopted records retention schedule**, when holding and purging data collected. See record retention schedule, page 17.

\* See Attachment 1 – Compliance Checklist

### **4.0 Access to Public Data**

All information maintained by the City is public unless there is a specific statutory designation which gives it a different classification.

- 4.1 **People Entitled to Access**. Any person has the right to inspect and copy public data. The person 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.

- 4.2 **Form of Request.** The request for public data may be verbal or written; however the City of Hugo asks that all requests be written. A request for information relating to litigation should be made through the City Attorney.  
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- 4.3 **Time Limits.** Requests will be received and processed during normal business hours. The city reserves the right to work within the statutory time limit of 10 business days.
- 4.4 **Fees.** Please see the City's Fee Schedule, adopted annually for the most current fee. A minimum of 1 hour will be charged for all requests.

## **5.0 Access to Data on Individuals**

Information about individual people is classified by law as public, private, or confidential.

### **5.1 People Entitled to Access**

- 5.1.1 Public information about an individual may be shown or given to anyone.
- 5.1.2 Private information about an individual may be shown or given to:
- a. The individual, but only once every six months, unless a dispute has arisen or additional data has been collected.
  - b. A person who has been given express written consent of the data subject. Page 15
  - c. People who are authorized by the federal, state or local law or court order.
  - d. 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.
  - e. People within the City staff, the City Council, and outside agents (attorneys) whose work assignments or responsibilities reasonably require access.

- 5.2 **Form of Request.** The request for public data may be verbal or written; however the City of Hugo asks that all requests be written. A request for information relating to litigation should be made through the City Attorney.  
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- 5.3 **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, driver license or similar form of identification.
- 5.4 **Time limits.** Requests will be received and processed during normal business hours. The city reserves the right to work within the statutory time limit of 10 business days.
- 5.5 **Fees.** Please see the City's Fee Schedule, adopted annually for the most current fee. A minimum of 1 hour will be charged to all requests.
- 5.6 **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. Summary data is public, and must be prepared for a request as needed. However, the time limit may be extended due to the time consuming nature of gathering such data.
- 5.7 **Juvenile Records.** The following applies to private (not confidential) data about individuals under the age of 18.
- 5.7.1 **Parental Access.** In addition to the people listed above who may have access to private data, a parent may have access to private information regarding a juvenile subject.
- 5.7.2 **Notice to Juvenile.** Before requesting private data from juveniles, city personnel must notify the juveniles that they may request that the information not be given to their parent(s). Page 16
- 5.7.3 **Denial of Parental Access.** The Responsible Authority of Designee may deny parental access to private data when the juvenile requests this denial and the Responsible Authority or Designee determines that withholding the data would be in the best interest of the juvenile. The request from the juvenile must be in writing stating the reasons for the request. In determining the best interest of the juvenile, the Responsible Authority or Designee will consider;
- a. Whether the juvenile is of sufficient age and maturity to explain the reasons and understand the consequences.
  - b. Whether denying access may protect the juvenile from physical or emotional harm.
  - c. Whether there are reasonable grounds to support the juvenile's reasons.
  - d. Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes. 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 juvenile under Minnesota Statutes.

## **6.0 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 in writing as soon possible. It must also include the specific legal authority for the denial.

## **7.0 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 him/herself, the City employee requesting the information must give the individual a Tennesen warning. Page 14

A Tennesen warning is not required when an individual is requested to supply investigative data to law enforcement.

## **8.0 Challenge to Data Accuracy**

An individual who is the subject of public or private data may contest the accuracy or completeness of that data 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 or Designee must respond and either (1) 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, or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

An individual who is dissatisfied with the Responsible Authority's action may appeal to the Commissioner, using the contested case procedures under MN Statutes § 14.

## **9.0 Data Protection**

### **9.1 Accuracy and Currency of Data**

9.1.1 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.

9.1.2 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.

9.1.3 All records must be disposed of according to the City's Records Retention Schedule. Page 17

## 9.2 **Data Safeguards**

9.2.1 Private and confidential information will be stored in files or databases which are not readily accessible to individuals who do not have authorized access and which will be secured during hours when the offices are closed.

9.2.2 Private and confidential data must be kept only in City offices, except when necessary for City business.

9.2.3 Only those employees whose job responsibilities require them to have access will be allowed access to files and records that contain private and confidential information. These employee will be instructed to:

- a. Not discuss, disclose or otherwise release private or confidential data to City employees whose job responsibilities do not require access to the data.
- b. Not leave private or confidential data where non-authorized individuals might see it.
- c. Shred private or confidential data before discarding, or dispose through confidential locked recycling.

9.2.4 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.

**MINNESOTA GOVERNMENT DATA PRACTICES ACT:  
COMPLIANCE CHECKLIST**

The Minnesota Government Data Practices Act (MGDPA), its accompanying rules, and related statutes impose specific obligations upon government entities to comply with the procedural requirements of the statute. This document summarizes these obligations.

The MGDPA is Chapter 13 of Minnesota Statutes. The Rules implementing the MGDPA are found in Minnesota Rules, Chapter 1205.

<b>MINNESOTA GOVERNMENT DATA PRACTICES ACT: COMPLIANCE CHECKLIST</b>			
<b>Authority</b>	<b>Topic</b>	<b>Specific Obligation</b>	<b>Purpose</b>
<b>1</b> MS §13.03, subd. 2; MN Rules 1205.0300	Customer service	Establish procedures to ensure that officials respond promptly to requests for government data. Required in written form by January 1, 2001.	Facilitate public access; Hold entity accountable
<b>2</b> MS §13.05, subd. 8	Access procedures	Prepare a public document setting forth the rights of data subjects and procedures for subjects to access public and private data about themselves	Inform citizens of their rights as subjects of government data, and explain how to exercise those rights
<b>3</b> MS §13.05, subd. 5(1); MN Rules 1205.1500	Data quality	Establish procedures to ensure that data on individuals are accurate, complete and current	Protect against the use of erroneous data in making decisions that affect individuals
<b>4</b> MS §13.05, subd. 5(2)	Data security	Establish procedures to ensure security safeguards for data on individuals	Protect individual privacy; Prevent alteration of data
<b>5</b> MS §13.05, subd. 1; MN Rules 1205.1500, subpart 3	Inventory of Records	Create and annually update an inventory of records containing data on individuals, including data collection forms	Create central repository of data classifications; Give notice of the data maintained by entity

**MINNESOTA GOVERNMENT DATA PRACTICES ACT:  
COMPLIANCE CHECKLIST**

<b>Authority</b>	<b>Topic</b>	<b>Specific Obligation</b>	<b>Purpose</b>
<b>6</b> MS §13.05, subd. 11	Contract provisions	When preparing contracts by which a private sector contractor performs government functions, insert provisions that clearly oblige the contractor to comply with MGDPA as if it were a government entity	Extend protection into the private sector where public sector performs government duties; Prevent government entities from concealing data in the private sector
<b>7</b> MS §13.05, subd. 7; MN Rules 1205.0700, subpart 3	Summary data	Prepare summary data upon the written request of any person; establish procedures for gaining access to summary data	Provide reasonable access to data for research purposes while protecting individual identities.
<b>8</b> MS §13.05, subd. 9, 10	Dissemination of not public data to other governmental entities without authority	An entity may not share not public data with another entity unless required or permitted by state statute or federal law.	Assure public policy basis for dissemination of not public data; Protect individual privacy
<b>9</b> MS §138.163; MS §15.17, subd. 3	Disposition of records	Dispose of and transfer records in accordance with statutory procedures	Ensure proper disposition of records preserved for legal or historical purposes
<b>10</b> MN Rules 1205.1500, subpart 1	Plan for periodic review	Entity must formulate a plan for reviewing the administration of data practices	Ensure periodic determination of which data are necessary to maintain
<b>11</b> MN Rules 1205.1500, subparts 4, 5	Modification of data handling procedures	Modify data collection and maintenance procedures to eliminate unnecessary data	Appropriate step following determination described above (11)
<b>12</b> MN Rules 1205.0500, subpart 3	Parental access and notice to minors	Procedures for parents to access data about their minor children	Ensure parental rights while protecting minor's interests concerning parental access

**MINNESOTA GOVERNMENT DATA PRACTICES ACT:  
COMPLIANCE CHECKLIST**

<b>Authority</b>	<b>Topic</b>	<b>Specific Obligation</b>	<b>Purpose</b>
<b>13</b> MN Rules 1205.1300, subpart 4	Authorized uses of data	Enumerate the authorized uses of data by category	Enable administrators to know how to respond to requests for data; Facilitate answers to questions about dissemination of data
<b>14</b> MN Rules 1205.1600	Informed consent	Design forms for obtaining informed consent for new release or use of private data	Ensure that contents of informed consent forms comply with legal requirements
<b>15</b> MN Rules 1205.1000	Responsible Authority	Each governmental entity must appoint a responsible authority by September 30, 1981	Identify the entity's principal decision maker about data practices
<b>16</b> MS §13.05, subd. 13	Data practices compliance official	Each governmental entity must appoint a compliance official by December 1, 2000	Identify the person within the entity to whom questions or data practices problems may be directed
<b>17</b> MN Rules 1205.1200, subpart 2; MS §13.03, subd. 2	Designees	Post the names of data practices designees, if appointed	Identify the other key data practices officials in each entity
<b>18</b> MN Rules 1205.1300, subpart 5	Training	Responsible authority must train designees and other staff	Ensure compliance and avoid liability

**THE MINNESOTA GOVERNMENT DATA PRACTICES ACT:  
DEFINITIONS AND CLASSIFICATIONS OF DATA**

The Minnesota Government Data Practices Act (MGDPA) establishes a system of data classifications that define, in general terms, who is legally authorized to access government data. This classification system is constructed from the definitions provided in Minnesota Statutes section 13.02. See also Minnesota Rules part 1205.0200.

<p><b>GOVERNMENT DATA</b> All data kept in any recorded form, regardless of physical form, storage media, or conditions of use MS §13.02, SUBDIVISION 7</p>		
<p><b>DATA ON INDIVIDUALS*</b>  MS §13.02, SUBDIVISION 5</p>	<p><b>DATA ON DECEDENTS</b>  MS §13.10, SUBDIVISION 1</p>	<p><b>DATA NOT ON INDIVIDUALS *</b>  MS §13.02, SUBDIVISION 4</p>
<p><b>PUBLIC</b> Accessible to anyone for any reason  MS §13.02, SUBDIVISION 15</p>	<p><b>PUBLIC</b> Accessible to anyone for any reason  MS §13.02, SUBDIVISION 15</p>	<p><b>PUBLIC</b> Accessible to anyone for any reason  MS §13.02, SUBDIVISION 14</p>
<p><b>PRIVATE</b> Accessible to the data subject; Not accessible to the public  MS §13.02, SUBDIVISION 12</p>	<p><b>PRIVATE **</b> Accessible to the representative of the decedent; Not accessible to the public  MS §13.10, SUBDIVISION 1B.</p>	<p><b>NONPUBLIC</b> Accessible to the subject of the data, if any; Not accessible to the public  MS §13.02, SUBDIVISION 9</p>
<p><b>CONFIDENTIAL</b> Not accessible to the data subject; Not accessible to the public  MS §13.02, SUBDIVISION 3</p>	<p><b>CONFIDENTIAL**</b> Not accessible to the representative of the decedent; Not accessible to the public  MS §13.10, SUBDIVISION 1A</p>	<p><b>PROTECTED NONPUBLIC</b> Not accessible to the data subject; Not accessible to the public  MS §13.02, SUBDIVISION 13</p>

\* Individual is defined at MS §13.02, subdivision 8. Individual means a living human being. It does not mean any type of entity created by law, such as a corporation.

\*\* Private and confidential data on decedents become public data ten years after the death of the data subject and 30 years after the creation of the data.



**City of Hugo**

***Public Records Request Form***

MN State Statutes, Chapter 13 created the Minnesota Government Data Practices Act (MGDPA). Under the provisions of the law, the compliance official for the entity controls how government data are collected, created, maintained, and released. The law also outlines a maximum payment for copies and time related to the dissemination of the requested information.

I, (Please Print Full Name) \_\_\_\_\_

Current Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

Request the following information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of requester \_\_\_\_\_  
Date \_\_\_\_\_, 2008

Request Completed by \_\_\_\_\_  
Date \_\_\_\_\_, 2008  
Michele Lindau – Data Compliance Official

Time \_\_\_\_\_ x 10.00/hr. = \_\_\_\_\_

# of copies \_\_\_\_\_ x .30/pg = \_\_\_\_\_

**Total payment due** \_\_\_\_\_



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**City of Hugo**

*Tennessee Warning*

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Some or all the information that you are asked to provide on the attached form is classified by MN State law as either private or confidential. Private data is information which generally cannot be given to the public, but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data.

Our purpose and intended use of this information is: \_\_\_\_\_

\_\_\_\_\_

You \_\_\_\_\_(are) / \_\_\_\_\_ (are not) legally required to provide this information.

If you refuse to supply the information, the following may happen: \_\_\_\_\_

\_\_\_\_\_

Other persons or entities who are authorized by law to receive this information are: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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**City of Hugo**

***Consent to Release Private Data***

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I, (Please Print Name) \_\_\_\_\_ authorize the City of Hugo to release 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(s):

\_\_\_\_\_  
\_\_\_\_\_

This authorization is dated \_\_\_\_\_ and expires on \_\_\_\_\_

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

Signature: \_\_\_\_\_

Identity verified by:

Witness: \_\_\_\_\_

ID: Driver's License, State ID, Passport, Other: \_\_\_\_\_

Comparison with signature file

Other: \_\_\_\_\_

Signature \_\_\_\_\_

Michele Lindau – Data Compliance Official





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**City of Hugo**

*Notice to Persons Under Age of 18*

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You have the right to request that some of the classified 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 also required to consider:

1. Whether you are of sufficient age and maturity to explain the reasons and understand the consequences.
2. Whether denying access may protect you from physical or emotional harm.
3. Whether there is reasonable grounds to support your reasons.
4. Whether the data concerns medical, dental or health services, which if not released would seriously jeopardize your health.

Notice given to: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_  
Michele Lindau – Data Compliance Official

I request the following information: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Be withheld from: \_\_\_\_\_

For these reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Signature of requester \_\_\_\_\_ Date \_\_\_\_\_, 2008