

CHAPTER 6: TOWN RECORDS

6.01. Title/Purpose.

This chapter is entitled "Town Records." The purpose of Chapter 6 is to set forth the rules and regulations governing the maintenance and preservation of the public records of the Town.

6.02. Authority.

The Town Board has the specific authority, powers, and duties, pursuant to Wis. Stat. §§ 19.21, 19.22, 19.23, 19.31, 19.33, 19.34, 19.35, 19.36, 19.37, 19.84, 19.85, 60.22, and 60.83, to manage and direct certain affairs related to Town public records.

6.03. Adoption of Ordinance.

The Town Board has, by adoption of this chapter, confirmed the specific statutory authority, powers, and duties in Wis. Stat. chs. 19 and 60, and has established by the Town ordinances the statutory powers and duties of the Town Board related to Town records.

6.04. Public Record Responsibilities.

All public records belonging to the Town, including records of special offices, committees, commissions, agencies, authorities, boards, or other special government units of the Town, shall be safely kept, properly maintained, and carefully preserved by the legal custodian thereof when:

A. These officers, employees, or agents receive custody of the public records from their predecessor or other persons.

B. These public records are required by state law or by the Town ordinances to be filed, deposited, or kept in the offices of these officers, employees, or agents.

C. These public records are in lawful possession of these officers, employees, or agents or the possession or control of which these officers, employees, or agents may be lawfully entitled by state law or by the Town ordinances.

6.05. Public Records Delivery.

All public records of the Town, including records of offices, special offices, committees, commissions, agencies, authorities, boards, or other special government units of the Town, shall be delivered by the officer, employee, or agent of these Town government units to the successor officer, employee, or agent of these Town government

units upon demand by the officer, employee, or agent of these Town government units upon expiration of the officer's term of office, upon the expiration of the employee's term of employment, or upon the expiration of the agent's term of agency with the Town, or upon the vacancy of the office. Upon death, the legal representative shall be responsible to deliver such public records upon demand to the successor of the deceased. The successor officer, successor employee, or successor agent of the Town government units shall acknowledge receipt of the public records and shall provide a receipt to the officer, employee, agent, or legal representative. The officer, employee, agent, or legal representative shall file a copy of such receipt with the Town Clerk. If a vacancy occurs before a successor is qualified, employed, or retained by the Town, such public records shall be delivered to the Town Clerk. The Town Clerk shall acknowledge receipt, and shall provide a receipt to the officer, employee, agent, or legal representative. The Town Clerk shall receipt these public records on behalf of the successor and these public records shall be delivered by the Town Clerk to the successor upon the latter's receipt of office, employment, or retention with the Town.

6.06. Public Record Access.

A. Custodian of Records.

(1) The legal custodian of Town records shall be the Town Clerk or, if by ordinance, another officer of the Town.

(2) The deputy custodian for any public record of the above noted offices, committees, commissions, agencies, authorities, boards, or other special government units shall be the Town Chairperson.

B. Public Notice of Record Location.

(1) The Town Board, its offices, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town, declares, by this chapter, that these offices, special offices, committees, commissions, agencies, authorities, boards or other special government units or their legal custodians do not have regular office hours to allow for inspection of records.

(2) If no regular hours exist, any person seeking a public record must provide at least 24 hours advance written notice to the legal custodian if a regular two consecutive hour per week schedule has been established and notices by a custodian in which access to the public record is permitted.

(3) If no regular schedule and no regular office hours are established as noticed above, then access to public records shall be permitted upon at least 48 hours written or oral notice by the person seeking the records to the legal custodian stating his or her intent to inspect specific records, with those records so described.

C. Access to Records.

(1) The legal custodian of any public record of the above noted offices, special offices, committees, commissions, agencies, authorities, boards, or any other special government units of the Town shall provide to any person the right to inspect any public record, except if, as indicated by specific statute, this chapter, or where the similar public policy based on the exemptions in Wis. Stat. § 19.85 should allow the legal custodian to restrict public access to these records. The legal custodian, when claiming a specific exemption for denying access to a public record, must make a specific demonstration to the person demanding access that there is a need to restrict public access at the time of the request for access to the public record.

(2) If and when the need to restrict the public record from public access has been eliminated, then the legal custodian must provide public access to the record. The legal custodian shall provide adequate security and restrictions for the public record when and if the legal custodian determines the record must be restricted from public access.

(3) The specific exemptions that may allow the legal custodian to restrict public access to records include, but are not limited to, those public policy exemptions for closed meetings listed in Wis. Stat. § 19.85.

D. Copying/Photographing Public Records.

(1) The legal custodian shall comply with the provisions of Wis. Stat. § 19.35 relating to allowing a person access to a public record to allow copying or photographing of a written public record, an audio tape, a video tape, or a record to be published for later sale and distribution. The legal custodian may demand a specific written request of the person requesting the public record wherein the request will reasonably describe for the legal custodian the requested record. The request must have a reasonable limitation as to the subject matter or to the length of time represented by the record. If the legal custodian does not believe the request for the public record is sufficiently limited, the legal custodian shall notice or attempt to notice the requesting person that further subject matter or time limitations must be provided before the public record request can be fully met. The legal custodian cannot request the name of the requesting person or the reasons for the need to access the public record, except if the legal custodian keeps the public record at a private residence or if the legal custodian, for security reasons, believes identification is necessary and appropriate, or except if federal law and regulations requires identification of the requesting person.

(2) The legal custodian may require supervision during the inspection and copying of any public record and may impose reasonable restrictions in the manner of access to certain records if the records are irreplaceable or easily damaged.

(3) There are no facilities for abstracting and copying Town public records and, for that reason, inspection, copying, and abstracting must be done at the residence of the Town Clerk or at such other place as the Town Clerk designates.

(4) The Town Board is not required to purchase or lease for any requesting person any equipment or facilities for photocopying, photographing, or other copying.

E. **Fees**. The Town may charge the actual, necessary, and direct reproduction costs for a copy of a record. The Town Board has declared these costs to be as follows:

10 pages or less - no charge
10 or more pages - \$0.15 per page

The Town Board declares that offices, special offices, committees, commissions, agencies, authorities, boards, and other special government units of the Town need not pay for copying costs for public records.

F. **Formal Request.**

(1) If the above noted Town Board, offices, special offices, committees, commission, agencies, authorities, boards, or any other special government unit of the Town receives a request for a record, it shall, as soon as practicable and without delay, either fill the request or notify the requesting person to deny the request, in whole or in part, and the reason for the denial.

(2) If the requesting person makes the request orally, the previously noted Town Board, offices, committees, commissions, boards, or other special government units of the Town may deny the request orally unless a demand for a written statement of the reason denying the request is made by the requesting person within five business days of the oral denial. If the above noted government bodies deny a written request, in whole or in part, the requesting person shall receive from the denying government body a written statement of the reason for denying the request. The written denial by these government bodies shall include a notice that this determination for denial is reviewable by mandamus under Wis. Stat. § 19.37(1), or upon application to the attorney general or district attorney of the County of Walworth.

G. **Record Destruction.** The Town Board, office, special office, committee, commission, agency, authority, board, or any other special government unit of the Town, or any officer, employee, or agent of the above noted government bodies, may not destroy any public record at any time after any of the above noted receive a request for inspection or copying of the record until after the request is granted or until at least 60 days after the date the request is denied. If an action is commenced under Wis. Stat. § 19.37 within 150 days after the request is denied or after the decision of the trial court, whichever is later, the requested record may not be destroyed until after the final order of the trial court and after any final order of the appellate court. Upon order to produce the record and the

order is not appealed, the requested record may not be destroyed until after the request for inspection or copying is granted.

H. Limitation Upon Access. Prior to any public release, the legal custodian shall separate specific information and material from the public record that should not be released to the public because the release of the information or material would be prejudicial to the public interest. Specifically, certain records are exempt, pursuant to Wis. Stat. § 19.36, from public release and may be withheld by the Town without disclosure:

- (1) Records which are specifically exempted from disclosure by federal or state law.
- (2) Law enforcement records relating to investigations; information obtained for law enforcement purposes that are required by federal law or regulation to be withheld as a condition to receipt of aid by the state.
- (3) Records produced or collected under a contract entered into with a private person.
- (4) Materials used for input for a computer program or the material produced as a product of the computer program.
- (5) Any record or a portion of a record containing information qualifying as a common law trade secret.
- (6) Any record not to be disclosed as a public record under the public policy provision of Wis. Stat. § 19.85 related to open meetings.

I. Notice to Historical Society. The Town Board, any office, special office, committee, commission, agency, authority, board, or any other special government unit of the Town, and their officers, employees, and agents, prior to the destruction of any public records belonging to the Town, shall provide at least 60 days notice, in writing, to the State Historical Society of Wisconsin. The Town Board shall not be required, pursuant to Wis. Stat. § 19.21, to provide notice to the State Historical Society of Wisconsin if the Town Board previously, by application, has received a waiver. In the event records to be destroyed contain forest crop acreage information, at least 60 days notice shall be given to the Secretary of the Wisconsin Department of Revenue.

J. Conditions and Terms for Destruction of Public Records.

(1) **Types of Records Destroyed.** The Town Board, any office, special office, committee, commission, agency, authority, board, or any other special government unit of the Town, and their officers, employees, and agents, shall destroy the following public records of the Town only upon the conditions noted below and at the time noted below.

(a) Obsolete Financial Records. All financial records of the Town that are not utility records may be destroyed by the Town Board, any office, special office, committee, commission, agency, authority, board, or any other special government unit of the Town, and their officers, employees, or agents, who are the legal custodians of these financial records, if these financial records are considered obsolete, at any time seven years after the record was effective, unless a shorter time period has been fixed by the Wisconsin Public Records and Forms Board, pursuant to Wis. Stat. § 16.61(3)(e), and then only after that shorter time period.

(b) Other Obsolete Records. All other public records of the Town that are not utility or financial records may be destroyed by the Town Board, any office, special office, committee, commission, agency, authority, board, or any other special government unit of the Town, and their officers, employees, or agents, who are the legal custodians of these financial records, if these financial records are considered obsolete, at any time seven years after the record was effective, unless a shorter time period has been fixed by the Wisconsin Public Records and Forms Board, pursuant to Wis. Stat. § 16.61(3)(e), and then only after that shorter time period. No assessment roll containing forest crop acreage in the Town may be destroyed without prior approval of the Wisconsin Department of Revenue.

(2) Specific Date of Destruction for Specific Records. The Town Board desires specifically that the following public records of the Town Board, any office, special office, committee, commission, agency, authority, board, or any other special government unit of the Town not be destroyed until after the years listed below:

- (a) Tax receipts - 15 years
- (b) Contracts and insurance policies - 10 years
- (c) Legal claims against the Town - six years
- (d) Bank statements, cancelled checks, and check registers, investment records, and receipts - seven years
- (e) Town Annual Budget - permanent
- (f) Town Annual Audit - permanent
- (g) Town Board minutes and ordinances - permanent
- (h) Town plats and subdivision plats - permanent