

**ORDINANCE OF THE TOWN OF ROXBURY
DANE COUNTY, WISCONSIN
Town Ordinance No. 2019-01**

TITLE: AN ORDINANCE RELATED TO PUBLIC RECORDS

THE TOWN BOARD OF THE TOWN OF ROXBURY, DANE COUNTY, WISCONSIN,
DO ORDAIN AS FOLLOWS:

Section I. Authority. This ordinance is adopted under the authority granted to the Town Board under Wis. Stat. § 19.21(4).

Section II. Public Records

- (1) Definitions. The following definitions shall be applicable in this Chapter:
 - (a) "Authority" means any of the following Town entities having custody of a Town record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
 - (b) "Custodian" means that officer, department head, division head or employee of the Town designated under Section II.(3) or otherwise responsible by law to keep and preserve any Town records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
 - (c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photograph, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.
- (2) Duty to Maintain Records.

- (a) Except as provided under Section II.(7), each officer and employee of the Town shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Town Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(3) Legal Custodian(s).

- (a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.
- (b) Unless otherwise prohibited by law, the Town Clerk or his or her designee shall act as legal custodian for all Town records, the Town Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Town Board, except that the Town Treasurer shall be the legal custodian for all records in his or her possession. In the event that the Town Clerk is not available, then the Town Clerk shall designate someone to act in his or her behalf as legal custodian.
- (c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.
- (e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subch. 11 of Ch. 19, Wis. Stats., and this Section. The designation of a legal custodian does not affect the powers and duties of an authority under this Section.

(4) Public Access to Records.

- (a) Except as provided in Section II.(6), any person has a right to inspect a record and to make or receive a copy of any record as provided in Wis. Stat. § 19.35(1).
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to Town employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged. No original public records of the Town shall be removed from the possession of the legal custodian.
- (f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:
 - (i) The cost of photocopying shall be twenty cents (20¢) per page, plus any costs incurred by the Town Clerk in going to a copying facility. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
 - (ii) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
 - (iii) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- or video-tapes, shall be charged.
 - (iv) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
 - (v) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester. The Town will determine the cost of locating a record by using the lowest hourly rate of any employee who may reasonably be able to locate the record.

- (vi) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
- (vii) Elected and appointed officials of the Town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (viii) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Wis. Stat. § 19.34, and the guidelines therein listed, each authority shall adopt, prominently display and made available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records or obtain copies of records, and the costs thereof. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Sections II.(4) through II.(6) of this Ordinance. This Subsection does not apply to members of the Town Board.

(5) Access Procedures.

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request.
- (a) A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stat. § 19.37. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section II.(4)(f). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (c) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Town Attorney, determines that a written request is so general as to be unduly

time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

- (d) A request for a record may be denied as provided in Section II.(6). If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five (5) business days or the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stat. § 19.37(1), or upon application to the attorney general or a district attorney.

(6) Limitations on Right to Access.

- (a) As provided by state and federal law, certain records are exempt from inspection under this Chapter.
- (b) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Town Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest in full access to the request record.
- (c) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Town Attorney prior to releasing any such record and shall follow the guidance of the Town Attorney when separating out the exempt material. If, in the judgment of the custodian and the Town Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(7) Destruction of Records.

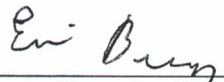
- (a) Town records may be destroyed only in accordance with the *Wisconsin Municipal General Records Schedule*, published by the Wisconsin Public Records Board, as the same may be amended from time to time and which is hereby adopted. The Town Chair and Town Clerk shall execute and file the Notification of General Records Schedule Adoption (Form PBR-002) no later than February 28, 2019.

- (b) Town officials and records custodians may consult other records schedules published by the Wisconsin Public Records Board and the Public Service Commission including, but not limited to, the *Budget and Related General Record Schedule*, the *Fiscal & Accounting Related Records General Schedule* and the *Purchasing & Procurement General Schedule* in evaluating whether or not a record is subject to destruction.”

Section III:
by law.

This ordinance shall be effective upon its passage and posting as required

Adopted and approved this 4th day of February 2019, by a vote of 3 in favor and 0 opposed.



Ervin Breunig, Town Chair

ATTEST:



Robert Pings, Town Clerk

Date adopted:	<u>February 4, 2019</u>
Date notice posted:	_____
Date Form PRB-002 filed:	_____
Effective date:	_____