

Chapter 128

RECORDS

[HISTORY: Adopted by the Town Board of the Town of La Pointe at time of adoption of Code (see Ch. 1, General Provisions, Art. III). Amendments noted where applicable.]

§ 128-1. Definitions.

Terms used in this chapter are defined as follows:

RECORD — Any material on which written, drawn, printed, spoken, visual, electromagnetic, or optical information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes but is not limited to handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. "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 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.

TOWN — The Town of La Pointe, Ashland County, Wisconsin.

§ 128-2. Duty to maintain records.

- A. Except as provided under § 128-7, 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.
- 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 Town Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

§ 128-3. Legal custodians.

- 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 specified, the Town Clerk or Deputy Clerk 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, the Zoning Administrator for all records in his or her possession, and the Chief of Police for all records in his or her possession.
- 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 the full legal power to carry out the duties of an authority under Subchapter II of Ch. 19, Wis. Stats., and this chapter.

§ 128-4. Public access to records.

- A. Except as provided in § 128-6, any person has the right to inspect a record and to make or receive a copy of any record as provided in § 19.35(1), Wis. Stats.
- 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 48 hours' advance notice of intent to inspect or copy.
- D. A requestor shall be permitted to use facilities comparable to those available to Town employees in 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:
 - (1) The cost of photocopying shall be as set forth in the schedule of fees. Said cost will be calculated not to exceed the actual, necessary and direct cost of reproduction.
 - (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
 - (3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, audiotapes or videotapes and optical disks, shall be charged.
 - (4) If mailing or shipping is necessary, the actual cost thereof shall also be

charged.

- (5) There shall be no charge for locating a record unless the actual cost thereof exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the requestor. The Town will determine the cost of locating a record by using the hourly rate as set by the Town Board for employees involved in attempting to locate the record.
 - (6) 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 \$10.
 - (7) 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.
 - (8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that a waiver or reduction of the fee is in the public interest.
- G. Pursuant to § 19.34, Wis. Stats., and guidelines therein listed, there shall be posted in a prominent place in the Town Hall a notice containing the times, place and methods whereby the public may obtain information and access to records or make requests for copies.

§ 128-5. 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 request may be made orally, but a request must be in writing before an action to enforce the request is commenced under § 19.37, Wis. Stats. 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 § 128-4F(6). A requester may be required to show acceptable identification whenever security reasons or federal law or regulation requires.
- B. Each custodian, upon request for any record, shall as soon as practicable and without delay, either fill the request or notify the requestor of the determination to deny the request in whole or in part and the reason 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.
- C. A request for a record may be denied as provided in § 128-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of

the reasons for denying the request is made by the requestor within five business days of 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 § 19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

§ 128-6. Limitations on right to access.

- A. As provided by § 19.36, Wis. Stats., the following records are exempt from inspection under this chapter:
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempt from disclosure by state law.
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if the exemption from disclosure is a condition to receipt of aids by the state.
 - (3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
 - (4) Any record or portion of a record containing information qualifying as a trade secret as defined in § 134.90(1)(c), Wis. Stats.
- B. As provided by § 43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.
- C. 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 resulting from the disclosure would outweigh the public interest in full access to the request record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
 - (1) Records obtained under official pledges of confidentiality which are necessary and given in order to obtain the information contained in them.
 - (2) Pursuant to § 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
 - (3) Pursuant to § 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Town officer or employee, or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.
 - (4) Pursuant to § 19.85(1)(d), Wis. Stats., records concerning current strategy for

crime detection or prevention.

- (5) Pursuant to § 19.85(1)(e), Wis. Stats., records of current deliberations or negotiation on the purchase of Town property, investing of Town funds or other Town business whenever competitive or bargaining reasons require nondisclosure.
- (6) Pursuant to § 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
- (7) Pursuant to § 19.85(1)(g), Wis. Stats., communication between legal counsel for the Town and any officer, agent or employee of the Town, when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under § 905.03, Wis. Stats.
- (8) Pursuant to § 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board and records of advice given by such ethics board on such requests.

§ 128-7. Destruction of records.

- A. Town officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Ch. 442, Wis. Stats., but not less than seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such shorter period:
 - (1) Bank statements, deposit books and stubs.
 - (2) Bonds and coupons after maturity.
 - (3) Canceled checks, duplicates and check stubs.
 - (4) License and permit applications, stubs and duplicates.
 - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (6) Receipt forms.
 - (7) Special assessment forms.
 - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- B. Town officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required

audit, subject to State Public Service Commission regulations, but not less than seven years after the record was effective, unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such a shorter period:

- (1) Contracts and papers relating thereto.
 - (2) Excavation permits.
 - (3) Inspection records.
- C. Town officers may destroy the following records of which they are the legal custodians and which are considered obsolete, but not less than seven years after the record was effective, unless another period has been set by statute and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such a shorter period:
- (1) Contracts and papers relating thereto.
 - (2) Correspondence and communications.
 - (3) Financial reports other than annual financial reports.
 - (4) Justice dockets.
 - (5) Oaths of office.
 - (6) Reports of boards, commissions, committees and officials duplicated in the Town Board proceedings.
 - (7) Election notices and proofs of publication.
 - (8) Canceled voter registration cards.
 - (9) Official bonds.
 - (10) Police records other than investigative records.
 - (11) Resolutions and petitions.
- D. Unless notice is waived by the State Historical Society, at least 60 days' notice shall be given the State Historical Society prior to the destruction of any record as provided by § 19.21(4)(a), Wis. Stats.
- E. Any electronic recordings of governmental meetings of the Town may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

§ 128-8. Preservation through microfilm, photographic reproduction or optical imaging.

Any Town officer or the director of a department or division of Town government may, subject to the approval of the Town Board, keep and preserve public records in his or her possession by means of microfilm, photographic reproduction or optical imaging. Such

records shall meet the standards set forth in § 16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of §§ 128-4 and 128-5 of this chapter.