

Chapter 2

ADMINISTRATION

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ARTICLE I. IN GENERAL

Sec. 2-1. Elected officials.

There shall be five supervisors for the town, one of whom shall be designated on the ballot as chair. The chair and supervisors no. 2 and no. 4 shall be elected at the spring election in the odd-numbered years, commencing with the election for the year 2001. Supervisors no. 1 and no. 3 shall be elected at the spring election in the even-numbered years commencing with the election for the year 2002. Supervisors no. 1 and no. 3 shall be elected for a one-year term at the spring election in the year 2001 only. The town clerk and the town treasurer shall be elected at the spring election in the odd-numbered years. No person not an elector of the town shall hold any own office and no person shall hold the offices of treasurer and assessor at the same time.

State law reference—Similar provisions, powers and duties of town chair generally, Wis. Stats. § 60.24.

Sec. 2-2. Appointed officials.

Appointed officials of the town shall be the following, who shall be appointed by the town chair, subject to confirmation by the town board, for terms of one year. The town chair shall not vote on confirmation except in case of a tie:

- (1) Assessor.
- (2) Attorney.
- (3) Building inspector.
- (4) Emergency government director.
- (5) Weed commissioner.
- (6) Zoning/land use administrator.
- (7) Dog control officer.

Sec. 2-3. Oaths and bonds.

Elected and appointed officials shall take and file the official oath within five days after notice of their election or appointment as provided in Wis. Stats. § 60.31, and shall execute and file the official bond as required by state statute and this Code.

Sec. 2-4. Removals.

(a) *Elected officials.* Elected officials may be removed by the judge of the circuit court for cause pursuant to Wis. Stats. § 17.13(3).

(b) *Appointed officials.* Appointed officials may be removed as provided in Wis. Stats. § 17.13(1) and (3).

Sec. 2-5. Vacancies.

(a) *Occurring.* Vacancies in elective and appointive positions are caused as provided in Wis. Stats. § 17.03.

(b) *Filling.* Vacancies in elective and appointive offices shall be filled as provided in Wis. Stats. § 17.25.

Sec. 2-6. Compensation.

The compensation of all elected and appointed officials, including members of boards and commissions, shall be as determined by the annual town meeting or the town board, where applicable, when authorized under Wis. Stats. § 60.10(2)(k), provided that salaries and compensation rates of elected officials shall not be increased or reduced during their terms of office. (See Wis. Stats. § 60.32.)

Sec. 2-7. Receipt of gifts and gratuities.

(a) *Restricted.* No town employee or official shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he is not authorized to receive from any person who:

- (1) Has or is seeking to obtain contractual or other business or financial relationships with the town or town board;
- (2) Conducts operations or activities which are regulated by the town or town board; or
- (3) Has interests which may be substantially affected by the town or town board.

(b) *Penalty.* The receipt of any gift, gratuity or other thing of value as denoted in subsection (a) of this section is contrary to the public policy of the town and is punishable as provided in Wis. Stats. § 946.12. Such conduct shall also be punishable under section 1-9.

Sec. 2-8. Duties of officials and employees.

The duties of all elected or appointed officials and employees of the town shall be as prescribed by the applicable state statutes pertaining to town officials and such additional duties and responsibilities as set from time to time by the town board.

Sec. 2-9. Nondiscrimination.

The town and its representatives shall not violate Wis. Stats. § 15.04(1), (8).

Sec. 2-10. Official newspaper.

The "Daily Citizen" of Beaver Dam, Wisconsin, is designated the official newspaper of the town.

ARTICLE II. TOWN BOARD

Sec. 2-41. Powers.

The town board shall have all powers of the town not specifically given to some other body or officer. Except as otherwise provided by law, the town board shall have the management and control of the town property, finances, highways, streets, utilities and the public service, and may act for the government and good order of the town, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulations, suppression, borrowing, taxation,

special assessment, appropriation, imposition of forfeitures and other necessary or convenient means. The town board may appoint such officials from time to time as may be deemed necessary for the benefit of the community. In addition, the town board shall have the powers enumerated in Wis. Stats. §§ 60.22 and 60.23. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

Sec. 2-42. General rules.

(a) Order and decorum, deliberations of the board and decisions on all questions of order and conduct in the proceedings of town meetings shall be in accordance with the parliamentary rules contained in Robert's Rules of Order, Newly Revised, unless otherwise provided by statute or such rules. No person other than a member shall address the board, except by permission from the chair. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn without the consent of the person making the same and the person seconding it.

(b) Nothing prescribed in this section concerning the conduct and procedure of regular and special town board meetings shall apply to the annual town meeting as prescribed in Wis. Stats. § 60.11, or special town meetings as prescribed in Wis. Stats. § 60.12.

Sec. 2-43. Meetings.

(a) *Open meeting law requirements.* Notice of every meeting of the town board, and every board, commission and committee thereof, shall be given to the public, to those news media who have filed a written request for such notice and to the official newspaper or a news medium likely to give notice in the area at least 24 hours prior to commencement of the meeting. If such notice is impossible or impractical, shorter notice may be given for good cause shown, but no notice shall be given less than two hours in advance of the meeting. Every public notice of a meeting shall contain the time, date, place and subject matter of the meeting.

(b) *Regular meetings.* Regular meetings of the town board shall be held on the second Tuesday of each calendar month at 7:00 p.m. Regular meetings falling on a legal holiday shall be held on such day and at such time and place as agreed by the town board. Prior notice to the public in compliance with the provisions of subsection (a) of this section shall be provided whenever a regular meeting is not held on the usual day.

(c) *Special meetings.* Special meetings of the town board may be called by the town chair or by any three town supervisors by filing a request with the clerk at least 24 hours prior to the time specified for such meeting. The clerk shall immediately notify each supervisor of the time and purpose of such meeting. No business shall be transacted at a special meeting except for the purpose stated in the notice thereof. Anything to the contrary in this section notwithstanding, no meeting shall be held unless notice thereof shall have been given as provided in Wis. Stats. § 19.84.

(d) *Place of meetings.* All meetings of the town board, including special and adjourned meetings, shall be held in the town hall unless otherwise designated by the board. Notice of a change of place shall be posted at the town hall at least 24 hours prior to the meeting.

(e) *Quorum.* Any three supervisors shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time or compel the attendance of the absent members.

(f) *Meetings to be public.* All meetings of the town board and subunits thereof shall be open to the public as provided in Wis. Stats. §§ 19.81-19.89. Public notice of all such meetings shall be given as provided in Wis. Stats. § 19.84.

Sec. 2-44. Order of business.

The business of the town board shall be conducted in the following manner:

- (1) Call to order by presiding officer.
- (2) Roll call: If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specified date.
- (3) Reading, correction and approval of minutes of previous meeting.
- (5) Committee reports, if any; treasury report, if requested; approval and payment of bills.
- (6) Communications or comments from the public.
- (7) Unfinished business from previous meeting.
- (8) New business, including introduction of ordinances and resolutions.
- (9) Reports of town officers; communications and other business.

Sec. 2-45. Presiding officer.

(a) *Control of meeting.* The town chair shall preserve order and conduct the proceedings of all meetings and hearings, whether on petition or regular or special meetings. A member may appeal from the decision of the presiding officer. Such appeal is not debatable and shall be sustained by a majority of the members present, exclusive of the presiding officer.

(b) *Absence of chair.* If the town chair is absent at any meeting, the clerk shall call the meeting to order and preside until the board selects a supervisor to preside for that meeting. The clerk shall not vote on any issue before the board.

(c) *Presiding officer to vote.* The presiding officer shall vote as a supervisor on all questions properly before the board. He may make motions or second motions before the board. (Code 1998, § 2.04)

Sec. 2-46. Committees.

(a) *Appointments.* The town chair shall designate and appoint all members of any standing and special committees established by the town board and shall designate the committee chairs. All committee appointments except designation of chair shall be subject to confirmation by a majority vote of the board.

(b) *Reports.* Each committee shall at the next regular meeting submit a written report on all matters referred to it. Such report shall recommend a definite action on each item and shall be signed by a majority of the committee. Any committee may require any town officer to confer with it and supply information in connection with any matter pending before it.

Sec. 2-47. Ordinances and resolutions.

Ordinances, resolutions, bylaws, communications and other matters submitted to the board shall be read by title and author. The clerk shall read and record each such reference by title. Any supervisor may require, the reading in full of any matter when it is before the board. Unless requested by a supervisor before a final vote is taken, no ordinance, resolution or bylaw need be read in full. Any ordinance, resolution or bylaw may be adopted by the town board at the same meeting at which it was introduced by a majority vote of all the town supervisors.

Sec. 2-48. Suspension of rules.

The rules of the board or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of two-thirds of the members present. (Code 1998, § 2.07)

ARTICLE III. BOARDS, COMMISSIONS AND COMMITTEES

Sec. 2-81. Board of appeals.

Regarding the town board of appeals, see article VIII of chapter 62, zoning.

Sec. 2-82. Board of review.

Regarding the board of review, see Wis. Stats. § 70.46.

Sec. 2-83. Alternates to board of review.

(a) Adoption. Pursuant to Wis. Stats. §§ 70.47(6m)(c), 70.46(1), the town board provides for the appointment of alternates to serve on the town board of review if a standing member of the board of review is removed or unable to serve for any reason.

(b) Appointments. The town board shall annually by resolution appoint alternates to the board of review to serve in the order appointed for a term of one year.

Sec. 2-84. Planning commission.

Regarding the planning commission, see Wis. Stats. § 62.23 and article IX of chapter 62, zoning, of this Code.

Sec. 2-85. Police committee.

Regarding the police committee, see Wis. Stats. § 60.56 and section 30-2.

ARTICLE IV. FINANCE AND TAX

Sec. 2-121. Fiscal year.

The calendar year shall be the fiscal year.

Sec. 2-122. Budget.

(a) *Preparation.*

(1) *Town board to prepare.* The town board shall annually prepare and submit a proposed budget presenting a financial plan for conducting the affairs of the town for the ensuing fiscal year.

(2) *Information required.* The budget shall include the following information:

- a. The expense of conducting each department and activity of the town for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for an increase and decrease recommended as compared with appropriations for the current year.
- b. An itemization of all anticipated income of the town from sources other than general property taxes and bonds issued, with a statement comparing the amounts received by the town from each of the same or similar sources for the last preceding and current fiscal year.
- c. An itemization of the amount of money to be raised from general property taxes which, with income from other sources, shall be necessary to meet the proposed expenditures.
- d. Such other information as may be required by the board and state law.

(3) *Copies required.* The town shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(b) *Hearing.* The board shall hold a public hearing on the budget as required by law.

(c) *Action by board.* Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the board as ordinances.

Sec. 2-123. Changes in budget.

The amount of the tax to be levied or certified and the amounts of the various appropriations, and the purposes thereof, shall not be changed after approval of the budget except, by a two-thirds vote of all the supervisors of the town board. Notice of such change shall be given by publication within 15 days thereafter in the official town newspaper.

Sec. 2-124. Town funds to be spent in accordance with appropriations.

No money shall be drawn from the treasury of the town, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by section 2-123. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made has been accomplished or abandoned.

Sec. 2-125. Temporary investment of funds not immediately needed.

The treasurer may invest any town funds not immediately needed, pursuant to Wis. Stats. § 66.0603(1m).

Sec. 2-126. Claims procedure.

(a) *Town board to audit accounts.* Except as provided in subsection (c) of this section, no account or demand against the town shall be paid until it has been audited by the town board and an order drawn on the town treasury therefor. Every such account shall be itemized. After auditing, the town board shall cause to be endorsed by the clerk, over his hand on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed in part only. The minutes of the proceedings of the board shall show to whom and for what purpose every such account was allowed and the amount thereof.

(b) *Claims to be verified.* All accounts, demands or claims against the town shall be verified by the claimant or proper official.

(c) *Payment of regular wages or salaries.* Regular wages or salaries of town officers and employees shall be paid by payroll, verified by the proper town official and filed with the clerk. (Code 1998, § 3.06)

Sec. 2-127. Mileage and per diem.

(a) *Town board members.* Town board members shall receive reimbursement for meetings, seminars and workshops. Board members shall be reimbursed for mileage and per diem for business which has been approved by the town board at such rate as shall be set from time to time by resolution of the town board. A travel statement with receipts attached, if appropriate, shall be submitted to the town clerk before payment shall be made.

(b) *Other officers and employees.* Town officers and employees, other than town board members, shall be reimbursed for trips taken at the same rate as board members, but no reimbursement shall be provided, unless such expense has been authorized in advance by the town board. A travel statement with receipts attached, if appropriate, shall be submitted to the town clerk before payment shall be made.

Sec. 2-128. Bad check charge.

The town treasurer shall charge any person who makes payment to the town with a bad check the amount set by town board resolution from time to time.

Sec. 2-129. Preparation of tax roll and tax receipts.

(a) *Aggregate tax stated on roll.* Pursuant to Wis. Stats. § 70.65(2), the clerk shall, in computing the tax roll, insert only the aggregate amount of state, county, local, school and other general property taxes minus credits applied under Wis. Stats. § 79.10(9), except credits determined under Wis. Stats. § 79.10(7m) in a single column in the roll opposite the parcel or tract of land against which the tax is levied, or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied. Each tax bill or receipt shall show the purpose for which the taxes are to be used giving the breakdown for state, county, local, school and other general property taxes. The tax roll shall indicate all corrections made under Wis. Stats. §§ 70.43 and 70.44.

(b) *Tax receipts.* The town treasurer shall enter in each tax receipt given by the county clerk for the payment of taxes the name of the person paying the taxes, if that person is not the owner of the property taxed, the date of payment and the aggregate amount of taxes paid. Tax receipts shall be signed, and a duplicate kept, by the treasurer after noting the payment of taxes upon the tax roll. The treasurer shall then deliver the receipt to the appropriate person.

Sec. 2-130. Tax exempt property registration system.

(a) *Purpose.* This section sets forth procedures concerning administration of the tax exempt property registration system and the required reporting by persons owning property exempt from real estate taxation and used in the most recently ended taxable year in a trade or business for which the owner of the property was subject to taxation under sections 511-515 of the Internal Revenue Code.

(b) *Duties.* By July 1 of each even-numbered year, the clerk must complete and deliver a taxation district summary report (denominated as Form PC-226 at the time of adoption of this section) to the state department of revenue. This report is to summarize information provided by the tax exempt property owners, with the owners' report being due March 31 of each even-numbered year, see Wis. Stats. § 70.337(1). The clerk shall make a reasonably diligent effort to ensure that all tax exempt property owners are sent the registration form and have returned the same. When the form has not been received by the clerk by March 31, the clerk shall send the property owner a notice by certified mail, return receipt requested, stating that the property for which the form is required will be appraised if a completed form is not received by the clerk within 30 days after the date the notice is sent. The clerk is responsible for form distribution and review.

(c) *Fee.* A fee set by town board resolution from time to time per entity shall be paid to the town with each registration statement if the registration statement is filed on or before March 31. A late fee of an

amount set by town board resolution from time to time per entity shall be imposed in addition to the regular filing fee if the registration form is returned after the March 31 deadline.

(d) *Prompt payment.* Prompt payment of fees shall be a condition of receiving or renewing any license issued by the town to the tax exempt property owner, when applicable. Timely submission of required reports is likewise a licensing condition and requires accurate information.

(e) *Statement required.* On or before March 15 of each year, each entity that owns property exempt under Wis. Stats. § 70.11, and that was used in the most recently ended taxable year in a trade or business for which the owner of the property was subject to taxation under sections 511-515 of the Internal Revenue Code shall file with the clerk on forms provided by the clerk a statement containing the following information:

- (1) The name, address and telephone number of the owner of the property.
- (2) The name, address and telephone number of a person who can be contacted concerning the use of the property in a trade or business.
- (3) A general description of the activities engaged in the conduct of the trade or business.
- (4) The location and a description of the property that is used in the trade or business including, if applicable, the specific portion of a building that is used to conduct the trade or business.

(f) *Late statement.* If the statement required under subsection (e) of this section is not received by the due date, the clerk shall send the owner of the property a notice by certified mail stating that failure to file a statement is subject to penalties under subsection (g) of this section.

(g) *Penalty.* A person who fails to file a statement under subsection (e) of this section within 30 days after notification under subsection (f) of this section shall forfeit \$10.00 for each succeeding day on which the form is not received by the clerk, but not more than \$500.00. Enforcement may be by use of the citation procedure separately adopted by section 1-9 and, if so, the following schedule applies: deposit allowed, \$300.00.

ARTICLE V. PUBLIC RECORDS

DIVISION 1. GENERALLY

Sec. 2-161. Confidentiality of income and expenses provided to assessor for assessment purposes.

(a) *Adoption.* This section adopts by reference Wis. Stats. § 70.47(7)(4). Income and expense information provided by the property owner to an assessor for the purposes of establishing the valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under Wis. Stats. § 19.35(1).

(b) *Exceptions.* An officer may make disclosure of such information under the following circumstances:

- (1) The assessor has access to such information in the performance of his duties.

- (2) The board of review may review such information when needed, in its opinion, to decide upon a contested assessment.
- (3) Another person or body has the right to review such information due to the intimate relationship to the duties of an office or as set by law.
- (4) The officer is complying with a court order.
- (5) The person providing the income and expense information has contested the assessment level at either the board of review or by filing a claim for excessive assessment under Wis. Stats. § 70.38(4), in which case the base records are open and public.

DIVISION 2. ACCESS

Sec. 2-181. Declaration of policy.

In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this town that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Furthermore, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information.

Sec. 2-182. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authority means any of the following town entities having custody of a town record: an office, elected or appointed 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.

Custodian means that officer, department head, division head or employee of the town designated under section 2-184, or otherwise responsible by law to keep and preserve any town records or file, deposit or keep such records in his office, who is lawfully in possession or entitled to possession of such public records and is required by this division to respond to requests for access to such records.

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. The term "record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, 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 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.

Sec. 2-183. Duty to maintain records.

(a) Except as provided under section 2-187, each officer and employee of the town shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which he may be lawfully entitled as such officer or employee.

(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 successor all records then in his custody, and the successor shall receipt therefor to the officer or employee who shall file such receipt with the 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.

Sec. 2-184. Legal custodians.

(a) Each elected or appointed official is the legal custodian of his records and the records of his office, but the official may designate an employee of his staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the clerk or the clerk's designee shall act as legal custodian for the town board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the town board.

(c) For every authority not specified in subsections (a) or (b) of this section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Wis. Stats. § 19.21 et seq., and this division. The designation of a legal custodian does not affect the powers and duties of an authority under this division.

Sec. 2-185. Public access to records.

(a) Except as provided in section 2-187, any person has a right to inspect a record and to make or receive a copy of the record in the presence of the custodian or receive a copy of any record as provided in Wis. Stats. § 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 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.

(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 by town board resolution from time to time per page with a minimum of an amount as set by town board resolution from time to time. Such cost has been 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 and audiotapes or videotapes, 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 therefor exceeds an amount set by resolution of the town board from time to time, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to ensure payment, if such estimate exceeds an amount set by resolution of the town board from time to time.
- (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 determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Wis. Stats. § 19.34 and the guidelines therein listed, each authority shall adopt, prominently display and make 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 this section through section 2-187. This subsection does not apply to members of the town board.

Sec. 2-186. 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 Wis. Stats. § 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 2-185(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.

(b) 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 request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in section 2-187. 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 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 Wis. Stats. § 19.37(1), or upon application to the attorney general or a district attorney.

Sec. 2-187. Limitations upon access and withholding.

(a) *Application of other laws.* Any record which is specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law is exempt from disclosure under Wis. Stats. § 19.35(1), except that any portion of that record which contains public information is open to public inspection as provided in subsection (f) of this section.

(b) *Law enforcement records.* Except as otherwise provided by law, whenever federal law or regulations require or as a condition to receipt of aids by this state require that any record relating to investigative information obtained for law enforcement purposes be withheld from public access, then that information is exempt from disclosure under Wis. Stats. § 19.35(1).

(c) *Contractors' records.* Each authority shall make available for inspection and copying under Wis. Stats. § 19.35(1) any record produced or collected under a contract entered into by the authority with a person other than an authority to the same extent as if the record were maintained by the authority. This subsection does not apply to the inspection or copying of a record under Wis. Stats. § 19.35(1)(am).

(d) *Computer programs and data.* A computer program, as defined in Wis. Stats. § 22.03(4)(c), is not subject to examination or copying under Wis. Stats. § 19.35(1), but the material used as input for a computer program or the material produced as a product of the computer program is subject to the right of examination and copying, except as otherwise provided in Wis. Stats. § 19.35 or this section.

(e) *Trade secrets.* An authority may withhold access to any record or portion of a record containing information qualifying as a trade secret as defined in Wis. Stats. § 134.90(1)(c).

(f) *Separation of information.* If a record contains information that is subject to disclosure under Wis. Stats. § 19.35(1)(a) or (am) and information that is not subject to such disclosure, the authority having custody of the record shall provide the information that is subject to disclosure and delete the information that is not subject to disclosure from the record before release.

(g) *Identities of applicants for public positions.*

- (1) In this section, the term "final candidate" means each applicant for a position who is seriously considered for appointment or whose name is certified for appointment and whose name is

submitted for final consideration to an authority for appointment to any state position, except a position in the classified service, or to any local public office, as defined in Wis. Stats. § 19.42(7w). The term "final candidate" includes, whenever there are at least five candidates for an office or position, each of the five candidates who are considered most qualified for the office or position by an authority, and whenever there are less than five candidates for an office or position, each such candidate. Whenever an appointment is to be made from a group of more than five candidates, "final candidate" also includes each candidate in the group.

- (2) Every applicant for a position with any authority may indicate in writing to the authority that the applicant does not wish the authority to reveal his identity. Except with respect to an applicant whose name is certified for appointment to a position in the state classified service or a final candidate, if an applicant makes such an indication in writing, the authority shall not provide access to any record related to the application that may reveal the identity of the applicant.

(h) *Identities of law enforcement informants.*

(1) In this subsection:

- a. The term "informant" means an individual who requests confidentiality from a law enforcement agency in conjunction with providing information to that agency or, pursuant to an express promise of confidentiality by a law enforcement agency or under circumstances in which a promise of confidentiality would reasonably be implied, provides information to a law enforcement agency or, is working with a law enforcement agency to obtain information, related in any case to any of the following:
 1. Another person who the individual or the law enforcement agency suspects has violated, is violating or will violate a federal law, a law of any state or an ordinance of any local government.
 2. Past, present or future activities that the individual or law enforcement agency believes may violate a federal law, a law of any state or an ordinance of any local government.
- b. The term "law enforcement agency" has the meaning given in Wis. Stats. § 165.83(1)(b), and includes the department of corrections.

- (2) If an authority that is a law enforcement agency receives a request to inspect or copy a record or portion of a record under Wis. Stats. § 19.35(1)(a) that contains specific information including, but not limited to, a name, address, telephone number, voice recording or handwriting sample which, if disclosed, would identify an informant, the authority shall delete the portion of the record in which the information is contained or, if no portion of the record can be inspected or copied without identifying the informant, shall withhold the record unless the legal custodian of the record, designated under Wis. Stats. § 19.33, makes a determination, at the time that the request is made, that the public interest in allowing a person to inspect, copy or receive a copy of such identifying information outweighs the harm done to the public interest by providing such access.

(i) *Records of plans or specifications for state buildings.* Records containing plans or specifications for any state-owned or state-leased building, structure or facility or any proposed state-owned or state-leased building, structure or facility are not subject to the right of inspection or copying under Wis. Stats. § 19.35(1) except as the department of administration otherwise provides by rule.

(j) *Refusal of disclosure; examples.* 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 determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested 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 were necessary and given in order to obtain the information contained in them.
- (2) Records of current deliberations after a quasijudicial hearing.
- (3) Records of current deliberations regarding any town officer or employee concerning employment, dismissal, demotion, compensation, performance or discipline, or the investigation of charges against a town officer or employee, unless such officer or employee consents to such disclosure.
- (4) Records concerning current strategy for crime detection or prevention.
- (5) Records of current deliberations or negotiations on the purchase of town property, investing of town funds or other town business whenever competitive or bargaining reasons require nondisclosure.
- (6) 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) Communications 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 Wis. Stats. § 905.03.

(k) *Partial disclosures.* 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.

DIVISION 3. PRESERVATION AND DESTRUCTION

Sec. 2-211. Preservation through available electronic and photographic equipment.

Any town officer or the director of any department or division of town government may, subject to approval by the town board, keep and preserve public records in his possession upon electronic devices or other photographic reproduction method. Such records shall meet the standards for reproduction set forth in Wis. Stats. § 16.61(7) (a) and (b), 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 law and this chapter.

Sec. 2-212. 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 bureau of municipal audit or an auditor licensed under Wis. Stats. ch. 442, 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 Wis. Stats. § 16.61(3)(e), and then after such shorter period:

- (1) Bank statements, deposit books, slips and stubs.
- (2) Bonds and coupons after maturity.
- (3) Cancelled checks, duplicates and check stubs.
- (4) License and permit applications, stubs and duplicates.
- (5) Official bonds.
- (6) Payrolls and other time and employment records of personnel included under the state retirement plan.
- (7) Receipt forms.
- (8) Special assessment records.
- (9) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(b) Town officers may destroy the following records of which they are the legal custodian 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 Wis. Stats. § 16.61(3)(e), and then after such a shorter period:

- (1) Assessment rolls and related records, including board of review minutes.
- (2) Contracts and papers relating thereto.
- (3) Correspondence and communications.
- (4) Financial reports other than annual financial reports.
- (5) Insurance policies.
- (6) Oaths of office.
- (7) Reports of boards, commissions, committees and officials duplicated in the council minutes.
- (8) Petitions.
- (9) Election notices.
- (10) Canceled registration cards.

(c) 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 Wis. Stats. § 19.21(4)(a).

(d) Any tape recordings of a governmental meeting 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. (Note: Only board minutes are required to be published.)