

# TOWN OF MORRISON

Approved October 14, 2014

## PUBLIC RECORDS REQUEST ORDINANCE

### 1. PURPOSE

This policy is intended to provide the public with a procedure to access public records of the Town of Morrison in accordance with Chapter 19, Subchapter II, Wis Statutes.

### 2. AFFECTED TOWN PERSONNEL

All Town Board Members and staff are subject to this policy. The Town Clerk shall administer this policy unless otherwise directed by the Town Board. The Town Clerk shall also enforce this policy with appropriate contractors and subcontractors of the Town.

### 3. POLICY STATEMENT

It is the intent of the Town of Morrison to comply with all local ordinances and State laws regarding public records and access to said records.

### 4. GENERAL INFORMATION ON ACCESS TO RECORDS

Access to the Towns Records may be obtained by making an appointment with the Town Clerk.

### 5. DEFINITIONS

- a. Authority: 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 the constitution, or by any law, ordinance, rule or order. Any subunit of a governing body.
- b. Custodian: Officer, department head, or any employee of the Town designated or otherwise responsible by law to keep and preserve Town records and files, deposit or keep such records in their office or is lawfully in possession or entitled to possession of such public records and who is required by the Town to respond to the request for access to such records.
- c. Record: Any material on which written, drawn, printed, spoken, visual or electromagnetic information or electronically generated or stored data 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, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved. "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.

### 6. REQUEST FOR RECORDS

Requests may be made verbally or in writing. Any person may inspect a record or request to purchase a copy as provided in Wis State Stat 19.35(1), except as provided in sub (10). A requester shall be permitted to use the facility comparable to those available to Town Employees to inspect or purchase a copy of a record. The authority is not required to provide extra equipment or a separate room for public access.

The legal custodian must be present and will require supervision during inspection and may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

## **7. DUTY TO MAINTAIN RECORDS**

Except as provided under sub. (11), each officer or employee of the Town shall keep and preserve all records received from their predecessor or other persons as required by law. Upon termination of employment with the Town, each officer or employee shall deliver to their successor all custodial records. No records shall be deleted or destroyed. If a vacancy occurs before a successor is found, all records of that position shall become the responsibility of the Town Clerk.

## **8. PUBLIC ACCESS TO RECORDS**

- a. Except as provided in sub (10), any person may inspect a record or purchase a copy of any record as provided in Wis State Stat 19.35(1).
- b. Upon receiving a written or oral notice of intent to inspect or purchase a copy of a record, the Town Clerk shall have at least forty eight (48) hours and up to 10 business days to respond to a request and set up an appointment.
- c. A requester shall be permitted to use the Town's facilities to inspect or request to purchase a copy of a record.
- d. The legal custodian must be present and will require supervision during inspection and may impose other reasonable restrictions on the manner of access to an original record.
- e. 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 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.
- f. If a record does not exist in the format specified by the requester, the custodian of the record is not required to recreate a document.

## **9. ACCESS PROCEDURES**

- a. A request to inspect a record or to purchase a copy of a record shall be made to the legal custodian. Each authority, upon request for any record, shall, as soon as practical 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 thereof as per Wis State Stat. 19.36. If documents are not easily retrieved, the requester shall at least receive an acknowledgement of request within 10 business days (not including holidays). 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 the subject matter or length of time represented by the records 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 State Stat 19.37.

## **10. LIMITATIONS ON RIGHT TO ACCESS**

a. As provide by Wis State Stat 19.36, the following records are exempt from inspection under this section:

- Records specifically exempted from disclosure by State or Federal Law or authorized to be exempted from disclosure by State 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.
- 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;
- A record or any portion of a record containing information qualifying as a common law trade secret.

b. In responding to a request for inspection or the purchase of a copy 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 determined that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record.

## **11. DESTRUCTION OF RECORDS**

The destruction of Town records shall be governed Wis State Stat 19.21 16.61, and local ordinance. The Town will retain records for at least the minimum period of time required by State Statute or local ordinance.

## **12. RECORDS REQUEST FORM**

An open records request form is available (not required to use) at the Town Hall and on the Town's website for the requester's convenience.

Fee Schedule:

The requester shall be charged a fee to defray the cost of locating and copying records as follow:

1. The cost of photocopying shall be twenty-five cents (\$0.25) per page. Two sided documents are the equivalent of 2 pages and will be charged per side. Electronic and faxed copies are charged the same fee as printed copies.
2. If a 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 the actual cost of reproducing these items plus any hourly rates for research.
4. If Mailing or shipping is necessary, the actual cost thereof shall be charged. Mileage will also be charged.
5. The Town shall also charge for the cost of locating and/or compiling records pursuant to a request, in an amount not to exceed the actual, necessary and direct cost of location and

compilation, if such costs exceed \$50.00. The fee shall be \$25.00 per hour per Wis State Stat 19.35.

6. The legal custodian shall estimate the cost of all applicable fees and will require a cash deposit adequate to assure payment, if such estimate exceeds five dollars (\$5.00).

7. If requested information hasn't been picked up within 60 days from the point in which it was made available to the requestor, the request will be considered null and void.

Adopted by the Town of Morrison, Town Board, the 14<sup>th</sup> day of October, 2014

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Kevin Collins, Chairman

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Tom Kempen, Supervisor

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Frederick Heitl, Supervisor

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Attest: Colleen Magley, Clerk

Posted: October 15, 2014