

Chapter 2

ADMINISTRATION*

***Cross references**--Any ordinance authorizing or approving any contract, deed or agreement saved from repeal, § 1-5(a)(2); administration and enforcement of buildings and building regulations, § 14-31 et seq.; court, ch. 26; law enforcement, ch. 38; administration and enforcement of recycling, § 58-51 et seq.; taxation, ch. 66; utilities, ch. 74; administration and enforcement of zoning, § 82-260 et seq.

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ARTICLE I.
IN GENERAL

Sec. 2-1. Smoking prohibited.

(a) *Generally.* Smoking, as defined in Wis. Stats. § 101.123(1)(h) is prohibited in all enclosed areas of the town hall facility.

(b) *Notice to be posted.* The town clerk shall purchase and post appropriate signs to give notice of the requirements of subsection (a) of this section, to be placed on all entrances to the town hall facility; provided, that failure to post such notice shall not constitute a defense to a charge of violating subsection (a) of this section if the person charged had actual notice of the requirement.

(c) *Penalty.* Any person who willfully violates the requirements of subsection (a) of this section after being advised of the requirements of subsection (a) of this section either by posted notice or by an employee of the town shall be subject to the penalties described in Wis. Stats. § 101.123(8)(a), for each offense.
(Ord. No. 2002-7, §§ 1--3, 2-13-2002)

Sec. 2-2. Fees of town professionals charged back.

Whenever either the town board, clerk or other town official has authorized a property owner in the town to contact the town attorney, engineer or any other of the town's professional staff or the town board, clerk or other town official contacts the town attorney, engineer or any of the town's professional staff or a property owner contacts the town attorney, engineer or any other of the town's professional staff, if such contact results in a charge to the town for that professional's time and services and such service is not a service supplied to the town as a whole, then and in that event the town clerk shall, pursuant to the provisions of Wis. Stats. § 66.0627, charge that service to such property owner for the fees incurred by the town.
(Ord. No. 90-3, § 1, 5-14-1990)

Sec. 2-3. Property owner allowed time to pay or appeal.

(a) *Generally.* The town clerk shall give each property owner billed for current services as provided for in this section notice that they shall have a specified period of time not less than 30 days to pay. Such notice shall also state that within 15 days of the date of the notice, the property owner may request a hearing before the town board regarding the charges against the property. Such notice shall also include an itemized statement of the professional service fees to be charged. Thereafter, if the property owner requests a hearing within the proper time period, the matter shall proceed as described in subsection (b) of this section. If a hearing is not requested within the required time period, if that charge remains unpaid, the town clerk shall automatically

charge the amount as a delinquent tax against the property as provided by law. In the event the statement rendered to the property owner or the time given for the property owner to pay or following a hearing if the town board approves all or part of the charge, it is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.

(b) *Appeal to town board.* Upon receipt of a timely request for hearing, the town board shall hold a hearing regarding the property charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice, via first class mail, to the property owner. In the event a hearing is requested, no charges shall be placed on the tax roll unless and until such hearing has been held and a decision has been rendered by the town board to approve the charges against the tax roll in whole or in part. If approved only in part, only that part of the charges that are approved may be charged against the tax roll.

(Ord. No. 2000-7, §§ 1, 2, 7-26-2000)

Sec. 2-4. Creation of department of public recreation.

There is created a department of public recreation in the town. The department of public recreation shall be maintained and operated by the recreation committee. The recreation director shall be responsible for the day-to-day administration, maintenance and operation of the department of public recreation and the park system, under the direction of the recreation committee and subject to the budget limitations.

(Ord. No. 2002-18, § 5, 12-11-2002)

Secs. 2-5--2-30. Reserved.

ARTICLE II.

OFFICERS AND EMPLOYEES*

***Cross references**--Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-5(a)(5); building-HAVC-electrical-plumbing inspector, § 14-39; weed commissioner; appointment, § 54-35; tax assessor, § 66-31 et seq.; zoning enforcement officer, § 82-268.

DIVISION 1.

GENERALLY

Secs. 2-31--2-50. Reserved.

DIVISION 2.

HUMANE OFFICER*

*Cross reference--Animals, ch. 10.

Sec. 2-51. State laws incorporated.

The lawful authority of humane officers as described in Wis. Stats. ch. 173 and § 58.07, and the statutes and regulations referred to therein (including Wis. Stats. chs. 174 and 951, and § 95.21) are hereby incorporated herein, including all subsequent amendments and renumbering that may be made thereto from time to time, in order to ensure uniform regulation of humane officers throughout the state.
(Ord. No. 2000-9, § 1, 12-21-2000)

Sec. 2-52. Humane officer position created.

The position of humane officer for the town is created, as follows:

- (1) *Appointment.* The humane officer shall be appointed by the town board.
- (2) *Term.* The humane officer shall serve until the appointment is terminated by the town board in the exercise the town board's discretion.
- (3) *Qualifications.* The humane officer shall be certified as a humane officer in accordance with Wis. Stats. § 173.05.
- (4) *Compensation.* The humane officer shall receive such compensation and benefits, if any, as was formerly paid to the position of animal control officer, except as may be modified from time to time by the town board by separate resolution.
- (5) *Duties.* The humane officer shall perform all duties, and shall have such responsibility, as is described in section 2-51.

(Ord. No. 2000-9, § 2, 12-21-2000)

Sec. 2-53. Withdrawal or modification of abatement orders.

Pursuant to Wis. Stats. § 173.03(2), the town board designates the town chair and town supervisors as the officials within the town who may modify or withdraw abatement orders issued by the humane officer under Wis. Stats. § 173.11.
(Ord. No. 2000-9, § 3, 12-21-2000)

Sec. 2-54. Report to state.

Pursuant to Wis. Stats. § 173.03(1), the town board directs the clerk to report all appointments and terminations of appointments of humane officers to the state department of agriculture, trade and consumer protection.
(Ord. No. 2000-9, § 4, 12-21-2000)

Secs. 2-55--2-70. Reserved.

DIVISION 3.

TREASURER

Sec. 2-71. Investment of surplus funds.

(a) The town treasurer is authorized and directed to invest the public funds of the town as allowed by law and according to the guidelines established by the Wisconsin Towns Association.

(b) With regard to such deposit or investment of such funds, the town treasurer shall take into consideration the following factors:

- (1) The safety and security of the investment or deposit shall be paramount;
- (2) The interest rate and other terms offered;
- (3) The capacity of the depository to handle the size of the deposit or investment; and

(4) The amount of existing town funds which are already in such depository.
(Res. of 12-13-1982)

Secs. 2-72--2-100. Reserved.

ARTICLE III.

BOARDS, COMMISSIONS AND COMMITTEES*

***Cross references**--Board of police commissioners created, § 38-2; board of police commissioners; duties and powers, § 38-3.

DIVISION 1.

GENERALLY

Secs. 2-101--2-120. Reserved.

DIVISION 2.

BOARD OF REVIEW

Sec. 2-121. Established; appointment of alternate members.

(a) The town board of review shall be constituted as described in Wis. Stats. § 70.46, including any amendments that may be made thereto.

(b) Alternate members of the board of review may be appointed and may serve as follows. Alternate members shall be town residents, and may include public officers and public employees. One alternate member shall be appointed annually by the town chair, subject to the confirmation of the town board, for a term of three years, provided that initially three alternate members shall be appointed for terms of one, two and three years respectively. At the time of their appointment, each alternate member shall be designated as either first, second or third alternate, to establish the priority of all alternate members, and this priority may be revised annually by the town chair subject to the confirmation of the town board. The first alternate member shall act with full power when four members are absent, refuse, or are otherwise unavailable to hear an objection. The second alternate member shall act with full power when five members (or four members and the first alternate member) are absent, refuse, or are otherwise unavailable to hear an objection. The third alternate member shall act with full power when six members (or five members and the first or second alternate member; or four members and the first and second alternate members) are absent, refuse, or are otherwise unavailable to hear an objection.

(Ord. No. 2000-4, § 1, 5-15-2000)

Sec. 2-122. Change in meeting hours.

Each year, the first meeting of the board of review shall be held on the third Monday of May at the town offices, W320 S8315 Beulah Road, Mukwonago, Wisconsin. The board of review shall only be in session, pursuant to Wis. Stats. § 70.47(3)(b), for two hours on that day, commencing at 6:00 p.m., and will either finally adjourn at 8:00 p.m., that same day, or will adjourn to another day, pursuant to Wis. Stats. § 70.47(4).

(Ord. No. 2000-2, § 1, 4-12-2000)

Sec. 2-123. Notice of time of first meeting.

Each year the notices of the reduced hours for the board of review shall be published in the official newspaper and posted in three public places in the town at least ten days prior to the first meeting.

(Ord. No. 2000-2, § 2, 4-12-2000)

Secs. 2-124--2-140. Reserved.

DIVISION 3.

PLAN COMMISSION

Sec. 2-141. Reestablishment and confirmation of town plan commission.

The town board reestablishes and confirms in the town a plan commission to operate in accordance with the provisions of Wis. Stats. § 62.23.
(Ord. of 4-14-1980, § 1)

Sec. 2-142. Membership.

(a) The plan commission shall consist of the town chair who shall be its presiding officer, the town engineer, the president of the park commission, one town supervisor, and three citizens. In the absence of an office of town engineer or president of the park commission, an additional citizen member shall be appointed to serve in lieu thereof for each as provided in subsection (d) of this section.

(b) The town supervisor member shall be elected in April by a two-thirds vote of the town board.

(c) The three citizen members of the plan commission shall be appointed by the town chair in April subject to confirmation by the town board, to hold office for a term of three years. All appointments shall be for a full term of three years.

(d) The fourth and/or fifth citizen member (filling the statutory position of the town engineer or president of the park commission) of the plan commission shall be appointed by the town chair subject to confirmation by the town board in April for a one-year term.

(e) All vacancies on the plan commission shall be filled for the unexpired term in the same manner as appointment for the full term.

(f) Citizen members of the plan commission shall take the official oath required by Wis. Stats. § 19.01, which shall be filed with the town clerk.
(Ord. of 4-14-1980, § 2)

Sec. 2-143. Powers and duties.

The plan commission shall have the powers and duties prescribed in Wis. Stats. § 62.23, and such other powers and duties as shall be vested in it from time to time by the board.
(Ord. of 4-14-1980, § 3)

Secs. 2-144--2-160. Reserved.

DIVISION 4.

RECREATION COMMITTEE*

***Cross reference--**Parks and recreation, ch. 46.

Sec. 2-161. Created; composition; membership; compensation.

There is created a recreation committee of the town board. The recreation committee shall consist of three members who must be town board members and shall be appointed by the town chair, subject to confirmation by the town board. Terms of the recreation committee members shall be one year starting on May 1. The recreation committee shall serve without pay.

(Ord. No. 2002-18, § 2, 12-11-2002)

Sec. 2-162. Duties.

The recreation committee is authorized to conduct the activities of public recreation, to expend funds, to authorize the purchase of equipment and supplies, recommend to the town board as who to hire as a recreation director, and to generally supervise the administration, maintenance, and operation of the department of public recreation and the town park system. All activities of the recreation committee shall be bound by the town budget.

(Ord. No. 2002-18, § 3, 12-11-2002)

Sec. 2-163. Reports and audit.

(a) *Reports.* The recreation committee shall annually submit to the town board a report of its activities and disclosure of all receipts and expenditures. The report shall be filed on or before the annual meeting each year.

(b) *Audit.* The recreation committee shall submit to audit as deemed necessary.

(Ord. No. 2002-18, § 4, 12-11-2002)

Secs. 2-164--2-180. Reserved.

ARTICLE IV.

FINANCE*

***Cross references**--Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-5(a)(1); any ordinance making or approving any appropriation or budget saved from repeal, § 1-5(a)(4); taxation, ch. 66.

DIVISION 1.

GENERALLY

Sec. 2-181. Facsimile signature of town chair.

(a) *Authorized.* In lieu of the personal signature of the town chair on any draft, order check or transfer order, the facsimile signature adopted by the town chair and approved by the town board may be affixed to the draft, order check or transfer order by the town clerk, provided that this facsimile signature shall only be used in circumstances described in subsection (b) of this section, and must be done in conformance with the procedure described in subsection (c) of this section.

(b) *Limited authority for facsimile signature.* The town clerk may use the town chair's facsimile signature on a draft, order check or transfer order only if the town clerk, upon diligent inquiry, finds that the town chair is not available to sign in person, and it reasonably appears that the town chair will not become available to sign in person prior to the date by which the draft, order check or transfer order must reasonably be acted upon by the town.

(c) *Procedure for use of facsimile signature.* If the town clerk finds that the limited circumstances for the use of facsimile signature apply, the town clerk shall contact any one of the town supervisors to obtain the approval of one town board supervisor for the use of the facsimile signature of the town chair. Upon receiving such approval, the town clerk may affix the facsimile signature of the town chair to the draft, order check or transfer order, provided that the town supervisor giving this authorization shall personally initial each such facsimile signature on each such draft, order check or transfer order. The town clerk and the town treasurer also must personally sign all drafts, order checks and transfer orders in accordance with their ordinary required procedures.

(d) *Certified copy to be filed with depositories.* The town clerk shall file a certified copy of this section with each public depository concerned.

(e) *Nonseverability.* The several subsections of this section are declared not to be severable. If any subsection or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply to the entire section, and use of the facsimile signature of the town chair shall be prohibited until such time as further authorization may be granted by the town board by separate ordinance or resolution as allowed by law.

(Ord. No. 2002-15, §§ 1--5, 5-1-2002)

State law reference--Facsimile signatures authorized, Wis. Stats. § 66.0607(3).

Sec. 2-182. Authorized signatures for town checks.

(a) Pursuant to Wis. Stats. §§ 60.24, 60.44, 60.45, and 66.0607, the town board designates the following persons to be authorized to sign the town checks:

- (1) The town chairman or in his absence, duly appointed chair of the finance committee.
- (2) The elected town clerk or in his absence, the deputy clerk.
- (3) The elected town treasurer.

(b) The town chairman and town clerk are deemed absent if they are not available to sign the check within 48 hours of approval of the check by the town board or issuance of the check by the town clerk.

(Ord. No. 2004-13, § 1, 9-20-2004)

Secs. 2-183--2-200. Reserved.

DIVISION 2.
CLAIMS PROCEDURE

Sec. 2-201. Purpose.

It is the declared intent of this division that the town board delegate to the town clerk to authorize routine payments of certain claims, without prior town board approval under the limited circumstances described in this division.
(Ord. No. 2002-16, § 1, 6-12-2002)

Sec. 2-202. Authority.

This division is adopted pursuant to the authority granted to town boards under Wis. Stats. § 60.44(2), to adopt an alternative claim procedure for approving financial claims against the town which are in the nature of bills and vouchers.
(Ord. No. 2002-16, § 2, 6-12-2002)

Sec. 2-203. Limited claims.

This division applies to payment of only the following types of claims:

- (1) Payment of payroll for employees;
- (2) Payment of utility bills for electric, gas, and telephone if the due date or discount rate will expire prior to the next scheduled town board meeting that can have bills presented on the agenda;
- (3) Purchase of building department seals;
- (4) Payment of monies received for municipal citations;
- (5) Payment of firearms training, seminars and conferences as budgeted;
- (6) Payment of ambulance/fire truck loans;
- (7) Payment of recycling mailing;
- (8) Payment of recreation department refunds;
- (9) Payment of Wal-Mart charges.
- (10) Payment of refund for tax overpayments per town policy.
- (11) Payment of Sam's Club charges.

- (12) Payment of Town Master Card charges.
- (13) Payment of premiums of Minnesota Life Insurance Company.
- (14) Payment of postage for tax notices and mailings.
- (15) Payment to Waukesha County for dog licenses.
(Ord. No. 2002-16, § 3, 6-12-2002) (Ord. 2008-7, § 1, 2-03-2009)

Sec. 2-204. Procedure.

(a) Payment of the types of claims described in section 2-203 may be made from the town treasury in the manner described in Wis. Stats. § 66.0607, without prior town board approval, upon the town clerk's review of each such bill or voucher, and the town clerk's approval in writing that each is a proper charge against the treasury. The town clerk's approval shall not be granted unless the town clerk first determines that:

- (1) Funds are available under the town budget to pay the bill or voucher.
- (2) The item or service covered by the bill or voucher has been duly authorized.
- (3) The item or service covered by the bill or voucher has been supplied or rendered in conformity with the authorization.
- (4) The claim appears to be a valid claim against the town.

(b) Town clerk may choose to require the claimant to submit proof, to aid the clerk in determining whether the claimant has complied with these conditions, prior to payment of the claim.

(c) Town clerk shall file with the town board at least monthly a list of the claims approved, showing the date the claim was paid; the name of the claimant; the purpose of the claim; and the amount of the claim.
(Ord. No. 2002-16, § 4, 6-12-2002)

Secs. 2-205--2-230. Reserved.

ARTICLE V.

PUBLIC RECORDS

Sec. 2-231. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The applicable definitions in Wis. Stats. § 19.32, as amended, shall also apply to this article.

Custodian means that officer, department head, division head, committee chair, or employee of the town designated in this article or otherwise responsible by law to keep and preserve any town records or file, deposit or keep such records in his office, or is lawfully in possession or entitled to possession of such public records and who is required by this article to respond to requests for access to such records or files.
(Ord. No. 82-5, § 1, 12-23-1982)

Cross reference--Definitions generally, § 1-2.

Sec. 2-232. Duty to maintain records.

(a) Except as provided under section 2-237, 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 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 successor all records then in his custody and the successor shall receipt, therefore to the officer or employee, who shall file such 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.
(Ord. No. 82-5, § 2, 12-23-1982)

Sec. 2-233. Legal custodians.

(a) Each elected 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 town 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) and (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) As an alternative, the town clerk, or in his absence or disability or in case of vacancy, the deputy clerk, is hereby designated the legal custodian of all town records.

(f) 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. § 19.21 et seq.), and this article. The designation of a legal custodian does not affect the powers and duties of an authority under this article.

(g) The following public officials are deemed to be the official custodian of their records: (This is in addition to the other provisions of this section and is not intended to be inclusive of all town records.)

- (1) *Town clerk.* The town clerk is the custodian of all records of the town and all records required by the clerk to be kept. (See subsection (b) of this section.)
- (2) *Treasurer.* All records of the treasurer shall be kept by the town treasurer.
- (3) *Building inspector.* All records of the building inspector shall be kept by the building inspector.
- (4) *Assessor.* All records of the assessor shall be kept by the assessor.
- (5) *Plan commission.* All records of the plan commission shall be kept by the clerk.
- (6) *Board of appeals.* All records of the board of appeals shall be kept by the secretary of the board of appeals, records at town hall.
- (7) *Police department.* All records of the police department shall be kept by the chief.
- (8) *Fire department.* All records of the fire department shall be kept by the fire chief.
- (9) *Weed commissioner.* All records of the weed commissioner shall be kept by the weed commissioner and clerk.

(10) *Park board and recreation director.* All records of the park board and recreation director shall be kept by the recreation director and/or clerk. (Ord. No. 82-5, § 3, 12-23-1982)

Sec. 2-234. Public access records.

(a) Except as provided in section 2-236, any person has a right to inspect a record and to make 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. All copies requested shall be provided by the town clerk.

(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. 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 costs thereof shall also be charged.
- (5) There shall be no charge for locating a record unless the actual cost therefor exceeds \$50.00, 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 costs of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.
- (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 (Wis. Stats. § 19.31--19.39 (sections 2-234 through 2-236)). This subsection does not apply to members of the town board.

(Ord. No. 82-5, § 4, 12-23-1982)

Sec. 2-235. 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 otherwise provided in this section, 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 2-234(f)(6). 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 2-236. 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.

(Ord. No. 82-5, § 5, 12-23-1982)

Sec. 2-236. 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 19.35(1)(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, the term "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) *Releasing of exempt and nonexempt materials.* 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. (Ord. No. 82-5, § 6, 12-23-1982)

Sec. 2-237. 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;

(2) Canceled checks;

(3) Receipt forms;

(4) Vouchers.

(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 by the bureau of municipal audit or an auditor licensed under Wis. Stats. ch. 442, 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 Wis. Stats. § 16.61(3)(e), and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two years.

(1) Contracts;

(2) Excavation permits;

(3) Inspection records.

(c) 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) Old insurance policies;

(2) Election notices;

(3) Cancelled registration cards.

(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 Wis. Stats. § 19.21(4)(a).

(e) 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.

(Ord. No. 82-5, § 7, 12-23-1982)

Sec. 2-238. Preservation through microfilm.

Any town officer, or the director of any department or division of town government may, (subject to the approval of the town board) keep and preserve public records in his possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic 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 of sections 2-234 through 2-236.

(Ord. No. 82-5, § 8, 12-23-1982)