

## TOWN RECORDS/TOWN PROPERTY PUBLIC RECORDS AND PUBLIC PROPERTY ORDINANCE

**Section I. Title/Purpose.** This Ordinance is entitled "Town Records/Town Property Public Records and Public Property Ordinance." The purpose of this ordinance is as follows:

To establish policies and procedures for members of the public to follow, when requesting inspection and/or copies of public records. To inform the public of their rights with respect to public records and the proper policies and procedures to follow when requesting inspection and/or copies of public records.

**Section II. Authority.** The Town Board of the Town of Shelby has the specific authority, powers and duties, pursuant to Sec. 19.21, 19.22, 19.23, 19.31, 19.34, 19.35, 19.36, 19.37, 19.84, 19.85, 60.22 and 60.83, (1988-1989) Wis. Stats., to manage and direct certain affairs related to Town of Shelby public records and Town of Shelby public property.

**Section III. Adoption of Ordinance.** The Town Board of the Town of Shelby has, by adoption of this ordinance, confirmed the specific statutory authority, powers and duties in Chapters 19, and 60, (1988-1989) Wis. Stats., and has established by these chapters and this ordinance the statutory powers and duties of the Town Board of the Town of Shelby related to Town of Shelby records and Town of Shelby property.

**Section IV. Public Records and Public Property Responsibilities.** All public records and public properties belonging to the Town of Shelby including records and public properties of officers, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Shelby, shall be safely kept, property maintained and carefully preserved by the legal custodian thereof when:

A. These officers, employees or agents receive custody of the public records and public property from their predecessor or other persons.

B. These public records and public properties are required by state law or by Town of Shelby Ordinance to be filed, deposited or kept in the offices of these officers, employees or agents.

C. These public records and public properties are in lawful possession of these officers, employees or agents or the possession or control of which these officers, employees or agents may be lawfully entitled by state law or by Town of Shelby Ordinance.

**Section V. Public Records and Public Property Delivery.**

All public records and public properties to the Town of Shelby, including records and properties of offices, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Shelby, shall be delivered by the officer, employee or agent of these Town of Shelby government units to the successor officer, employee or agent of these Town of Shelby government units upon demand by the officer, employee or agent of these Town of Shelby government units, upon expiration of the officer's term of office, upon the expiration of the employee's term of employment or upon the expiration of the agent's term of agency with the Town of Shelby, or upon the vacancy of the office. Upon death, the legal representative shall be responsible to deliver such public records or public properties upon demand to the successor of the deceased. The successor officer, successor employee or successor agent of these Town of Shelby government units shall acknowledge receipt of the public records and public properties and shall provide a receipt to the officer, employee, agent or legal representative. The officer, employee, agent or legal representative shall file a copy of such receipt with the Town Clerk of the Town of Shelby. If a vacancy occurs before a successor is qualified, employed or retained by the Town of Shelby, such public records and public properties shall be delivered to the Town Clerk of the Town of Shelby. The Town Clerk of the Town of Shelby shall receive these public records and public properties on behalf of the successor and these public records and public properties shall be delivered by the Town Clerk of the Town of Shelby to the successor upon the latter's receipt of office, employment or retention with the Town of Shelby.

**Section VI. Public Record Access.**

**A. Custodian of Records.**

The below noted offices, special offices, committees, commissions, agencies, authorities, board or other special government units of the Town of Shelby have designated the below noted as legal custodian of their public records.

Town Clerk, Shelby Town Hall, 2800 Ward Avenue,  
La Crosse, Wisconsin 54601

If no offices, special offices, committees, commissions, agencies, authorities boards or other special government units of the Town of Shelby have been designated for any particular public records, then legal custodian for those records shall be the Town Clerk of the Town of Shelby or, if by ordinance, another officer of the Town of Shelby.

The deputy custodian for any public record of the above noted offices, committees, commissions, agencies, authorities, boards or other special government units shall be the below noted:

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Deputy Clerk, Shelby Town Hall, 2800 Ward Avenue, La Crosse, Wisconsin 54601

B. Public Notice of Record Location.

The above noted offices, special offices, committees, commissions, agencies, authorities, boards and other special government units of the Town of Shelby shall adopt and display a public notice related to the custody of the public records under their custody. The public notice noted above shall be designed and published as noted below:

### **PUBLIC NOTICE**

The Town Board of the Town of Shelby has adopted Village Powers pursuant to Section 60.10(2)(c) and 60.22(3), Wis. Stats. In addition, the Town Board of the Town of Shelby has the specific authority, powers and duties, pursuant to Sections 60.10, 60.20, 60.22, and 60.23, Wis. Stats., and has, with authorization at a Town meeting, additional statutory authority, powers and duties to manage and direct certain affairs of the Town of Shelby. In addition, the Town Board of the Town of Shelby has additional general and specific statutory authority, powers and duties established beyond Chapter 60, Wis. Stats.

Members of the public desiring to inspect or request copies of public records may submit such requests at Shelby Town Hall, 2800 Ward Ave., La Crosse, Wisconsin 54601 during regular business hours of 8 a.m. until 4 p.m., Monday through Friday, excepting legal holidays. It is recommended that requests be made in writing and with at least 48 hours notice in order to permit custodians of records to conduct manual and/or off premises searches, if necessary.

Requests should be directed to appropriate custodian of requested records, as follows:

Town Clerk - primary custodian  
Deputy Town Clerk - secondary custodian  
Fire Chief - custodian of Fire Department records  
Assessor - custodian of Tax Assessor records  
Senior Police Officer - custodian of Police records

Copies of public records may be requested and will be provided at a cost of 25¢ per page. Certified copies will be provided at a cost of an additional 25¢ per page. In addition, a charge may be assessed for record searches.

For further information regarding access to and copying of public records, see Town of Shelby Ordinance, Chapter 2.

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The Town Board of the Town of Shelby, for the below noted offices, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Shelby, declares, by this ordinance, that these offices, special offices, committees, commissions, agencies, authorities, boards or other special government units or their legal custodians, do not have regular office hours to allow for inspection of records.

Fire Department - Town of Shelby Fire Chief  
Police Department - Town of Shelby Senior Police Officer

The above public notice shall reflect, when displayed and published, if there are no regular business hours by the custodians and shall provide the alternative days and hours provided for access to and inspection of public records. The days and hours wherein which public access and inspection of public records are permitted are noted below:

Town Clerk, Shelby Town Hall, 2800 Ward Avenue, La Crosse, Wisconsin 54601  
8 a.m. - 4 p.m., Mon-Fri, excepting legal holidays.

If no regular hours exist, any person seeking a public record must provide at least twenty-four (24) hours advance written notice to the legal custodian if a regular two (2) consecutive hour per week schedule has been established and notices by a custodian in which access to the public record is permitted.

If no regular schedule and no regular office hours are established as noticed above, then access to public records shall be permitted upon at least forty-eight (48) hours written or oral notice by the person seeking the records to the legal custodian stating his or her intent to inspect specific records with those records so described.

### C. Access to Records.

The legal custodian of any public record of the above noted offices, special offices, committees, commissions, agencies, authorities, boards or any other special government units of the Town of Shelby shall provide to any person the right to inspect any public record except if, as indicated by specific statute, this ordinance or where the similar public policy based on the exemptions in Sec. 19.85, (1988-1989) Wis. stats., should allow the legal custodian to restrict public access to these records. The legal custodian, when claiming a specific exemption for denying access to public record, must make a specific demonstration to person demanding access that there is a need to restrict public

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access at the time of the request for access to the public record.

If and when the need to restrict the public record from public access has been eliminated, then the legal custodian must provide public access to the record. The legal custodian shall provide adequate security and restrictions for the ~ public record when and if the legal custodian determines the record must be restricted from public access.

### D. Copying/Photographing Public Records.

The legal custodian shall comply with the provisions of Sec. 19.35, (1988-1989) Wis. stats., relating to allowing a person access to a public record to allow copying or photographing of a written public record, an audio tape, a video tape or a record to be published for later sale and distribution. The legal custodian may demand a specific written request of the person requesting the public record wherein the request will reasonably describe for the legal custodian the requested record. The request must have a reasonable limitation as to the subject matter or to the length of time represented by the record. If the legal custodian does not believe the request for the public record is sufficiently limited, the legal custodian shall notice or attempt to notice the requesting person that further subject matter or time limitations must be provided before the public record request can be fully met. The legal custodian can not request the name of the requesting person or the reasons for the need to access the public record except if the legal custodian keeps the public record at a private residence, or if the legal custodian, for security reasons, believes identification is necessary and appropriate or except if federal law and regulations requires identification of the requesting person.

The legal custodian may require supervision during the inspection and copying of any public record and may impose reasonable restrictions in the manner of access to certain records if the records are irreplaceable or easily damaged.

The Town Board of the Town of Shelby has the following facilities for inspection, copying and abstracting the records during established office hours.

Town Clerk, Shelby Town Hall, 2800 Ward Avenue, La Crosse, Wisconsin 54601  
8 a.m. - 4 p.m., Mon-Fri, excepting legal holidays.

The Town Board of the Town of Shelby is not required to purchase or lease for any requesting person any equipment or

facilities for photocopying, photographing or other copying.

**E. Fees.**

The Town of Shelby may charge the actual, necessary and direct reproduction costs for a copy of a record. The Town Board of the Town of Shelby has declared these costs to be as follows:

\$0.25 per page.

An additional \$0.25 per page for certified copies.

The Town Board of the Town of Shelby declares offices, special offices, committees, commissions, agencies, authorities, boards and other special government units of the Town of Shelby need not pay for copying costs for public records.

In addition to the copying cost charge, a fee for locating the record will be charged, if the cost to locate is more than fifty dollars (\$50.00), and may charge a fee for the actual necessary and direct mailing or shipping fee. The Town of Shelby may require a pre-payment of the fee if the total fees established by this subsection will exceed five dollars (\$5.00).

**F. Formal Request.**

If the above noted Town Board of the Town of Shelby, any offices, any special offices, any committees, any commissions, any agencies, any authorities, any boards or any other special government units of the Town of Shelby receives a request for a record, they shall as soon as practicable and without delay either fill the request or notify the requesting person to deny the request, in whole or in part, and the reason for the denial.

If the requesting person makes the request orally, the previously noted offices, committees, commissions, boards or other special government units of the Town of Shelby may deny the request orally unless a demand for a written statement of the reason denying the request is made by the requesting person within five (5) business days of the oral denial. If the above noted government bodies deny a written request, in whole or in part, the requesting person shall receive from the denying government body a written statement of the reason for denying the request. The written denial by these government bodies shall include a notice that this determination for denial is reviewable by mandamus under Sec. 19.37(1), (1988-1989) Wis. stats., or upon application to the attorney general or district attorney of the County of La Crosse.

G. Record Destruction.

The Town Board of the Town of Shelby, any officer, any office, any special office, any committee, any commission, any agency, any authority, any board or other special government units of the Town of Shelby or any officer, employee or agent of the above noted may not destroy any public record at any time after any of the above noted receive a request for inspection or copying of the record until after the request is granted or until at least sixty (60) days after the date the request is denied. If an action is commenced under Sec. 19.37, (1988-1989) Wis. Stats., within one hundred and fifty (150) days after the request is denied or after the decision of the trial court, whichever is later, the requested record may not be destroyed until after the final order of the trial court and after any final appellate court decision. Upon order to produce the record and the order is not appealed, the requested record may not be destroyed until after the request for inspection or copying is granted.

H. Limitation Upon Access.

Prior to any public release, the legal custodian shall separate specific information and material from the public record that should not be released to the public because the release of the information or material would be prejudicial to the public interest. Specifically, certain records are exempt pursuant to Sec. 19.36, (1988-1989) Wis. Stats., from public release and may be withheld by the Town from disclosure:

1. Records "which are specifically exempted from disclosure by federal or state law."
2. Law enforcement records relating to investigations, information obtained for law enforcement purposes that are required by federal law or regulation to be withheld as a condition to receipt of aid by the state.
3. Records produced or collected under a contract entered into with a private person.
4. Materials used for input for a computer program or the material produced as a product of the computer program.
5. Any record or a portion of a record containing information qualifying as a common law trade secret.

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6. Any record not to be disclosed as a public record under the public policy provision of Sec. 19.85, (1988-1989) Wis. Stat., related to open meetings.

### **Section VII. Notice to Historical Society.**

The Town Board of the Town of Shelby, any office, any special office, any committee, any commission, any agency, any authority, any board or any other special government units of the Town of Shelby and their officers, their employees and their agents of the aforesaid, prior to the destruction of any public records belonging to the Town of Shelby, noted below in Sec. (2), shall provide at least sixty (60) days notice, in writing, to the State Historical Society of Wisconsin. The Town Board of the Town of Shelby shall not be requested, pursuant to Sec. 19.21, (1988-1989) Wis. Stats., to provide notice to the State Historical Society of Wisconsin if the Town Board previously, by application, has received a waiver.

### **Section VIII. Conditions and Terms for Destruction of Public Records.**

#### **A. Types of Records Destroyed.**

The Town Board of the Town of Shelby, any office, any special office, any committee, any commission, any agency, any authority, any board or any other special government units of the Town of Shelby and their officers, their employees and their agents of the aforesaid shall destroy the following public records of the Town of Shelby only upon the conditions noted below and at the time noted below:

1. Obsolete Financial Records. All financial records of the Town of Shelby that are not utility records, the Town Board of the Town of Shelby office, any special office, any committee, any commission, any agency, any authority, any board or any other special government units of the Town of Shelby and their officers, their employees or their agents of the aforesaid, who are the legal custodians of these financial records of the Town of Shelby, if these financial records are considered obsolete, the above noted legal custodians may destroy these financial records at anytime seven (7) years after the record was effective, unless a shorter time period has been fixed by the state Public Records and Forms Board pursuant to Sec. 16.61 (3)(e), (1988-1989) Wis. Stats., and then only after that shorter time period.

2. Other Obsolete Records, All other public records of the Town of Shelby that are not utility or financial records, the Town Board of the Town of Shelby, any office, any special office, any committee, any commission, any agency, any authority any board or any other special government units of the Town of Shelby and their officers, their employees or their agents of the aforesaid who are the legal custodians of these records of the Town of Shelby, if these records are considered obsolete, the above noted legal custodians may destroy these records at anytime seven (7) years after the record was effective unless another period has been set by statute and then only after such a period, or unless a shorter time period has been fixed by the state Public Records and Forms Board pursuant to Sec. 16.61(3)(e), (1988-1989) Wis. Stats., and then only after that shorter time period. No assessment roll containing forest crop acreage in the Town of Shelby may be destroyed without prior approval of the Department of Revenue.

**Section IX. Specific Date of Destruction for Specific Public Records.**

The Town Board of the Town of Shelby desires specifically that the following public records of the Town Board of the Town of Shelby, its offices, its special offices, its committees, its commissions, its agencies, its authorities, its boards or other special government units of the Town of Shelby not be destroyed until after the years listed below:

- A. Tax Receipts for the Town of Shelby: 20 years after the receipt was issued by the Town of Shelby.
- B. Contracts and Insurance Policies Issued to Town of Shelby: 20 years after the policy was issued to the Town of Shelby.
- C. Legal-Claims against the Town of Shelby: 20 years after the claim was noticed to the Town of Shelby.

**Section X. Taped Records of Meetings.**

The Town Board of the Town of Shelby, any office, any special office, any committee, any commission, any agency, any authority, any board or any other special government units of the Town of Shelby and their officers, their employees and their agents of the aforesaid may destroy any taped records of any public meeting of the aforesaid no sooner than ninety (90) days after the public meeting minutes have been approved by the appropriate

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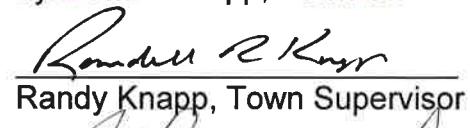
government unit if the purpose of the tape recording was to make and maintain minutes of the public meeting.

**Section VI. Effective Date.** This Ordinance shall take effect upon passage and publication. The provisions of this Ordinance shall prevail over any previous Ordinances of the Town of Shelby that are or may be in conflict therewith.

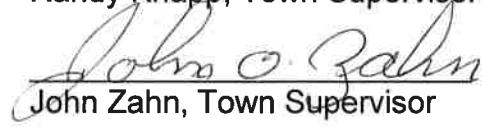
Date passed: March 22, 2010



Lynnetta P. Kopp, Town Chair



Randy Knapp, Town Supervisor



John Zahn, Town Supervisor

ATTEST:



Cathy Brott, Town Clerk