

STATE OF WISCONSIN
Town of Frankfort
Pepin County

SECTION 2.7 - PUBLIC RECORDS ORDINANCE

2.7- PUBLIC POLICY AND PURPOSE

It is declared to be the public policy of the Town of Frankfort 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. Providing citizens with information on the affairs of government is 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. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.

The goal is to provide access to records that assist the public in becoming an informed electorate.

This public records ordinance therefore serves a basic tenet of our democratic system by providing opportunity for public oversight of government.

2.71 - DEFINITIONS.

- (1) **AUTHORITY.** Any of the following having custody of a record: an office, elected 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 above.
- (2) **RECORD.** 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 an authority. 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.
- (3) **REQUESTER.** Any person who requests inspection or copies of a record.

2.72 - LEGAL CUSTODIAN

The clerk of the Town of Frankfort has been designated under § 19.33 Wis. Stats as the legal custodian of the records for the Town of Frankfort, except that legal officials are the custodians of their own records of office and chairpersons of committees of elected officials are custodians of the records of the committee.

2.73 - PUBLIC ACCESS TO RECORDS

- (1) Except as provided by law any requester has a right to inspect a record and to make or receive a copy of any record as provided in §19.35(1), Wis. Stats.
- (2) 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.
- (3) Each authority shall provide any person who is authorized to inspect or copy a record which appears in written form under §19.35(1)(b), Wis. Stats., or any person who is authorized to and requests permission to photograph a record, the form of which does permit copying under §19.35(1)(f), Wis. Stats., with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. An authority is not required by this subsection to purchase or lease photocopying, duplicating, photographic, or other equipment or to provide a separate room for the inspection, copying or abstracting of records.
- (4) 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.
- (5) Each authority shall impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law. Subject to the limitations of the preceding sentence, the cost of photocopying shall be \$0.25 per page. Such cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
- (6) Each authority shall impose a fee upon the requester of a copy of a record for the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.
- (7) Except as otherwise provided by law or as authorized to be prescribed by law, an authority shall impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.
- (8) Each authority shall impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.
- (9) An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiver or reduction of the fee is in the public interest.

- (10) Each authority shall require prepayment by a requester of any fee or fees imposed under this subsection if the total amount exceeds \$5.
- (11) Under §19.34, Wis. Stats., and the guidelines therein listed, the Town shall adopt, prominently display and make available for inspection and copying at its Town Hall and website, 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.

2.74 - ACCESS PROCEDURES.

- (1) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under §19.34, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 2.72(10). 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.
- (2) Each authority, 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 therefore. If the legal custodian, after conferring with the Town Counsel, 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 the request in a manner which would permit reasonable compliance.
- (3) A request for a record may be denied as provided in Section 2.74. If a request is made orally, it may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 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, the determination is subject to review by mandamus under §19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

2.75 - LIMITATIONS ON RIGHT TO ACCESS.

- (1) As provided by §19.36, Wis. Stats., the following records are exempt from inspection under this section:
 - (a) Records specifically exempted from disclosure by State or federal law or authorized to be exempted from disclosure by State law.
 - (b) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the State.
 - (c) 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 the right of examination and copying, except as otherwise provided by §19.35(1), Wis. Stats., or this chapter.
 - (d) A record or any portion of a record containing information qualifying as a common law trade secret.
 - (e) Identities of applicants for public positions.
- (2) 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 Town Counsel, may deny the request, in whole or in part, only if he or she determines the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples for which disclosure may be refused include, but are not limited to, the following:
 - (a) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
 - (b) Records of current deliberations after a judicial or quasi-judicial trial or hearing.
 - (c) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Town officer or employee or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.
 - (d) Records concerning current strategy for crime detection or prevention.
 - (e) 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.
 - (f) Records concerning consideration of 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.
 - (g) 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 §905.03, Wis. Stats.

- (3) 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 Counsel prior to releasing any such record and shall follow the guidance of the Town Counsel when separating out the exempt material. If in the judgment of the custodian and the Town Counsel 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.

The Town Board of the Town of Frankfort, Pepin County, Wisconsin, has the specific authority under s. 19.34, Wis. stats., to adopt this ordinance.

This ordinance is effective upon publication or posting.

Adopted July 14, 2015

Published July 23, 2015

/s/ Bryce Black, Chair

/s/ Richard McDermott, Supervisor

/s/ Curt Stine, Supervisor

Donna Juleff, Supervisor

/s/ Kay Hamilton, Supervisor

Attest: /s/ Maureen Manore, Clerk