

Town of Namakagon
Ordinance 56-21
Access and Maintenance of Town Records

SECTION 1: DEFINITIONS

A. "Authority" means 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 constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which received more than 50 percent of its funds from a county or a municipality, and which provides services related to public health or safety to the county or municipality, a university police department, or a formally constituted sub-unit of the foregoing.

B. "Custodian" means any elected official, committee chairperson, officer, department head, division head, or employee of the Town designated or otherwise responsible by law to keep and preserve any Town records or file, deposit or keep such records in his or her office or is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.

C. "Record" means any material on which written, drawn, printed, spoken, visual, electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that 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 discs, 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 that 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 that are available for sale, or that are available for inspection at a public library.

SECTION II: DUTY TO MAINTAIN RECORDS

A. Possession by Custodians

Except as otherwise provided by law, each Custodian shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

B. Passing Records to Successors

Upon the expiration of a Custodian's term of office or employment, or whenever the office or position of employment becomes vacant, each such Custodian shall deliver to his or her successor all records in his or her custody and the successor shall provide a receipt therefor to the Custodian, who shall file said 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.

SECTION III: DESIGNATION AND DUTIES OF CUSTODIANS

- A. Elected Officials. Each elected official is the Custodian of his or her records and the records of his or her office, but such official may designate an employee of his or her staff to act as the legal custodian.
- B. Town Clerk. Unless otherwise prohibited by law, the Town Clerk or the Clerk's Designee shall act as Custodian for the Town Board and for any committees, commissions, boards, or other authorities created by Ordinance or Resolution of the Town Board.
- C. Other Authorities. For every authority not specified in subs. (A) or (B), the authority's chief administrative officer is the Custodian for the authority, but the officer may designate an employee of his or her staff to act as the Custodian.
- D. Leave of Absence. Each Custodian shall name a person to act as Custodian in his or her absence or the absence of his or her designee.
- E. Power of the Custodian. The Custodian shall have full legal power to render decisions and to carry out the duties of an authority under subchapter 11 of chapter 19, Wis. Stats., and this section. The designation of a Custodian does not affect the powers and duties of an authority under this section.

SECTION IV: PUBLIC ACCESS TO RECORDS

- A. Inspection of Records.
Except as otherwise provided by law, 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. Availability of Records.
Records will be available for inspection and copying during all regular office hours.
- C. Office Hours.
The Town Office of the Town of Namakagon is located at 23845 County Hwy M, Cable, WI 54821. Office hours are Monday through Thursday 9:30am to 2:30pm.
- D. Requester.
A requester shall be permitted to use facilities comparable to those available to town employees to inspect, copy or abstract a record.
- E. Supervision During Inspection.
The 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. Requester Fee.
A requester shall be charged a fee to defray the cost of locating and copying records as follows:
 - a. The cost of photocopying shall be as provided in the Town of Namakagon Comprehensive Fees Schedule. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.

- b. If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
- c. The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- or video-tapes, shall be charged.
- d. If mailing or shipping is necessary, the actual cost thereof shall also be charged.
- e. There shall be no charge for locating a record unless the actual cost thereof exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- f. The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.
- g. Elected and appointed officials of the Town of Namakagon shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- h. The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

G. Public Records Notice.

Pursuant to Wis. Stats. §19.34, and the guidelines therein listed, the Town Clerk 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 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.

SECTION V: ACCESS PROCEDURES

A. Requesting a Copy.

A request to inspect or copy a record shall be made to the 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. 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. Fulfilling requests. 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

thereof. If the 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 or her request in a manner which would permit reasonable compliance.

- C. Denying Requests. A request for a record may be denied as provided in Section VI. 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.

SECTION VI: LIMITATIONS ON RIGHT TO ACCESS

A. Exemptions

As provided by Wis. Stats. §19.35 and §19.36, the following records are exempt from inspection under this section:

- a. Records specifically exempt from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
- b. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding;
- c. Any record containing personally identifiable information that, if disclosed, would endanger an individual's life or safety, identify a confidential informant, endanger the security of certain governmental facilities; or compromise the rehabilitation of a person in custody;
- d. 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 or aids by the state;
- e. 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; and
- f. A record or any portion of a record containing information qualifying as a trade secret as defined in Wis. Stats. §134.90(1)(c);
- g. Identities of applicants for public positions, if indicated in writing by such applicant;
- h. Records of plans of specifications for state buildings;
- i. Employee personnel records, except to such employees or such employee's representative;
- j. Records of an individual holding a local public office or a state public office;

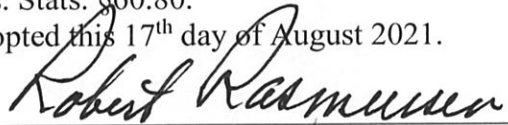
- k. Financial identifying information; and
 - l. As provided by Wis. Stats. §43.30, public library, circulation records are exempt from inspection under this section.
- B. Responding to Copy Requests
- In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the Custodian, after conferring with the town attorney, may deny the request, in whole or in part, only if he or she 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:
- 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 quasi-judicial hearing.
 - c. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline or 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. 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 Wis. Stats. §905.03.
- C. Private Information. 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 unreasonable jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

SECTION VII: CONFLICTS BETWEEN ORDINANCE AND STATE LAW

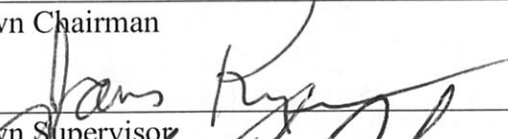
- A. In the event there is any conflict between this ordinance and state law, state law shall control.

SECTION VIII: EFFECTIVE DATE

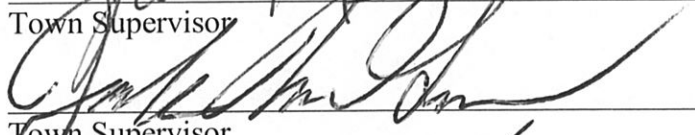
- A. This ordinance is effective on publication or posting.
- B. The Town Clerk shall properly post or publish this ordinance as required under Wis. Stats. §60.80.
- C. Adopted this 17th day of August 2021.



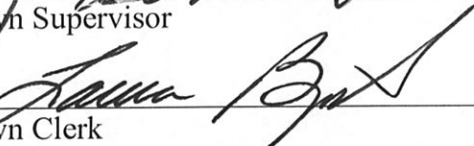
Town Chairman



Town Supervisor



Town Supervisor



Town Clerk



Posted 9-8-21 dB

TOWN OF NAMAKAGON

Open Records Request Form

Request: 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 under Wis. Stats. §19.35(1)(h). 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. Each custodian, upon request of any record, shall, as soon as practicable and without delay, either fill the request or notify the requestor of the authority's determination to deny the request in whole or in part. Submit open records request to the Town Clerk in person or by mail: Town of Namakagon, 23845 County Hwy M, Cable, WI 54821.

Access: Records will be available for inspection and copying during normal business hours Monday – Thursday, 9:30 a.m. – 2:30 p.m. The legal custodian may require supervision during inspection or may impose reasonable restrictions on the manner of access to an original record. In some cases, records may require retrieval and therefore may not be immediately available for inspection. Every effort will be made to respond to the open records request as soon as practicable and without delay.

Fees: The cost of photocopying shall be provided in Town of Namakagon Ordinance 56-21 Access and Maintenance of Town Records, and the Town of Namakagon Comprehensive Fees Schedule. The actual cost shall be charged for providing a copy of other records not in printed form, such as films, computer printouts and audio or video-tapes, shall be charged. If mailing or shipping is necessary, the actual cost thereof shall also be charged. The actual cost of location of records will be charged; however, there shall be no charge for locating of records unless the actual cost exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requestor. The legal custodian will estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00. The basic fees, as established by Town of Namakagon Ordinance 56-21 are attached for reference.

Limitations: As provided by Wis. Stats. §19.36, certain records are exempt from inspection. You will be notified if your request cannot be fulfilled because of its exempt status.

Note: A request for access to a public record may not be refused “because the person making the request is unwilling to be identified or to state the purpose of the request”, Wis. Stats. §19.35(1)(i). You are being asked to provide the information called for on a voluntary basis and to better serve your request. Further, a request for access to a public record may not be refused if received by mail, unless prepayment of a fee is required.

TOWN OF NAMAKAGON

REQUESTOR'S INFORMATION (Please Print)

Date of Request: _____

Requestor's Name/Affiliation:

Address:

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____

Other Contact Information: _____

RECORDS REQUESTED – Please be specific and describe the records being requested with dates noted, if necessary. Attach additional pages if required.

CIRCLE ONE: Pickup or Mail or Email or Fax Information

Additional Information or Comments:

TOWN OF NAMAKAGON

OPEN RECORDS REQUEST AGREEMENT:

I agree to pay the costs of photocopying, duplications, and labor costs involved in retrieving information that is not readily available, and the cost of mailing or faxing. In the event the estimated charges exceed \$5.00, I agree to make a deposit as required by Town of Namakagon Ordinance #56-21 Access and Maintenance of Records. Applicable fees which are approved by the Town Board are within Town of Namakagon Fees Schedule.

I understand that the Town of Namakagon, WI may withhold information which is not considered public information under the Wisconsin Open Records Law, accompanying Attorney General Opinions and case law. I also understand that the Town of Namakagon is required to release only those documents that exist, in their current state, and that the town is not required to compile or create specific information in formats for my use.

Signature Required: _____

Date: _____

TOWN USE ONLY

Date received: _____

Action Taken on Request

___ Approved

___ Approved and denied in part

___ Denied

Please attach a copy of any statement denying access to, a copy of, or information contained in any public record covered by this request.

Date completed: _____

Fee Paid: _____