

CODE OF ORDINANCES
Town of Willard, Rusk County, Wisconsin

CHAPTER 4
PUBLIC RECORDS AND PUBLIC PROPERTY ORDINANCE

4.01 PUBLIC RECORDS AND PUBLIC PROPERTY ORDINANCE

- (1) TITLE AND PURPOSE.** This ordinance is entitled the 'Town of Willard Public Records and Public Property Ordinance'. The purpose of this ordinance is to document for the public, and members of the Town Board, the rights, responsibilities, and procedures, relating to public records and public property.
- (2) AUTHORITY.** The Town Board has the specific authority under Wisconsin Statutes, and the Town's Village Powers, to adopt and enforce this ordinance.
- (3) ADOPTION OF ORDINANCE.** The Town Board of the Town of Willard has, by adoption of this ordinance, confirmed the specific statutory authority, powers, and duties, in Chapters 19 and 60, Wisconsin Statutes, and has established by these chapters, and this ordinance, the statutory powers, and duties, of the Town Board of the Town of Willard related to Town records and property.

4.02 DEFINITIONS

Authority. Authority means any of the following having custody of a record: office, elective official, agency, board, commission, committee, council, department, or public body corporate and politic, created by the constitution or by any law, ordinance, rule, or order.

Legal Custodian. The legal custodian is vested by the authority with full legal power to render decisions, and carry out the authority's statutory public records responsibilities.

Public Record. Nearly all records, as defined herein, are considered a public record. Drafts, notes, preliminary computations, and personal property of the authority, or legal custodian, may not constitute a public record. Emails, or texts, may be a public record, unless such communication is deemed personal property of the authority, or legal custodian. Reference Chapter 19, Wisconsin Statutes for a comprehensive list of records that shall, or may, be a public record of the Town.

Record. 'Record' means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created, or is being kept, by an authority, or legal custodian.

Website. 'Website' means an Internet site maintained by the municipality, authority, or legal custodian. Documents presented by, and communications through the use of, the website, are considered public records. Software, or leased hardware, used to present the website to the public, may not be considered public record, or public property.

4.03 PUBLIC RECORDS RESPONSIBILITIES

All public records belonging to the Town of Willard, including records of all Town authorities, shall be safely kept, properly maintained, and carefully preserved, by the legal custodian thereof when:

- (1) THESE TOWN AUTHORITIES** receive custody of the public records from their predecessor, or other persons
- (2) THESE PUBLIC RECORDS** are required by State law or by Town ordinance to be filed, deposited, or kept in the offices of these Town authorities
- (3) THESE PUBLIC RECORDS** 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 ordinance

4.04 PUBLIC RECORDS AND PUBLIC PROPERTY DELIVERY

(1) ALL PUBLIC RECORDS and public properties of the Town include records and properties of offices, special offices, committees, commissions, agencies, authorities, boards, or other special government units, of the Town. All public records and public properties of the Town shall be delivered by the officer, employee, or agent of these Town government units to the successor officer, employee, or agent, of these Town of Willard government units upon:

(a) Demand by the officer, employee, or agent, of these Town government units

(b) Expiration of:

1. The officer's term of office
2. The employee's term of employment
3. The agent's term of agency with the Town

(c) Vacancy of the office

(2) UPON DEATH, the legal representative shall be responsible to deliver such public records upon demand to the successor of the deceased. The successor Town authority shall acknowledge receipt of the public records, 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.

- (3) IF A VACANCY OCCURS** before a successor is qualified, employed, or retained by the Town, such public records shall be delivered to the Town Clerk. The Town Clerk shall acknowledge receipt, and shall provide a receipt to the officer, employee, agent or legal representative. The Town Clerk shall receipt these public records and public properties on behalf of the successor and these public records shall be delivered by the Town Clerk to the successor upon the latter's receipt of office, employment or retention with the Town.

4.05 PUBLIC RECORDS ACCESS

(1) CUSTODIAN OF RECORDS.

- (a)** The Town designates the following authorities as legal custodians of their public records.
1. Town Clerk: All records except as noted below
 2. Town Assessor: All records of the Town Assessor, including current tax records, real estate records, and computer information, computer disks, and printouts used by the Town Assessor
 3. Town Treasurer: All financial records of the Treasurer's office
- (b)** If no authority of the Town is designated for any particular public records, then legal custodian for those records shall be the Town Clerk, or, if by ordinance, another officer of the Town.
- (c)** All public records presented, or stored, on the Town's website shall be made available to the Town Clerk through sharing of passwords in order to provide unfettered access to those records.
1. Any authority in control of, or contracted to manage, the Town's website shall not destroy, alter, or interfere with, the storage, contents, or delivery of any email on such website unless instructed to do so by the Town Clerk performing duties under the Municipal Records Schedule.
 2. At least 3 administrators shall be appointed to develop, maintain, monitor, and provide for retention of public records, on the Town's website, and social media, if such social media is in use. Retention of records may be obtained through sharing of passwords, and electronic storage of regular backups performed by those administrators. At minimum, administrators shall be:
 - a. Town Clerk
 - b. Town Treasurer
 - c. Information Technology Specialist, hired, or contracted, by the Town
 - d. A 'Social Media Policy' shall be created, and agreed to, by the administrators of the Town's official website, and social media site(s), if any. At minimum, the policy shall address:
 - 1.) Private internet use versus Town public use
 - 2.) Ethics and professional behavior
 - 3.) Moderation of content:
 - a.) Co-administrators shall monitor each other's posts
 - b.) Limiting public forum to prevent violation of open meeting laws
 - c.) Monitoring social media for spam, inappropriate posts, and abuse

(2) PUBLIC NOTICE OF RECORD LOCATION.

- (a)** The above noted legal custodians shall adopt, and display, a public notice related to the custody of the public records under their custody.
- (b)** The Town Board for the below noted legal custodians declare, by this ordinance, that there are no regular office hours to allow for inspection of records.
1. Town Clerk
 2. Town Treasurer
 3. Town Assessor
- (c)** The above public notice shall reflect that there are no regular business hours by the custodians, and access to public records shall be permitted upon at least forty-eight (48) hours' notice by the requester seeking public records. The request to the legal custodian may be oral, or written, stating the requester's intent to inspect public records, with those records so described.

(3) ACCESS TO RECORDS.

- (a)** The legal custodian of any public record of the Town shall provide to any person the right to inspect any public record, except when Wisconsin Statute allows the legal custodian to restrict public access to these records. The specific exemptions that may allow the legal custodian to restrict public access to records include, but are not limited to, those public policy exemptions for closed meetings listed in Chapter 19, Wisconsin Statutes, those limitations in Chapter 19, Wisconsin Statutes, and those exemptions listed in Chapter 5, Wisconsin Statutes, related to open meetings.
- (b)** The legal custodian, when claiming a specific exemption for denying access to public record, must make a specific demonstration to the requester that there is a need to restrict public access at the time of the request for access to the public record.
- (c)** The legal custodian shall provide adequate security and restrictions for the public record if the legal custodian determines the record must be restricted from public access.
- (d)** If the need to restrict the public record from public access has been eliminated, then the legal custodian must provide public access to the record.

(4) COPYING AND PHOTOGRAPHING PUBLIC RECORDS.

- (a) The legal custodian shall comply with the provisions of Chapter 19, Wisconsin Statutes, 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.
- (b) The Town Board declares all Town records as irreplaceable, or easily damaged. The copying of all records requires supervision.
- (c) The Town Clerk has no office hours. The Town has a copying machine. Requests are made to the Town Clerk who provides copies within forty-eight (48) hours, unless retrieval and copying require additional time.
- (d) The Town Board is not required to purchase or lease, for any requesting person, any equipment, or facilities, for photocopying, photographing, or other copying.

(5) FEES.

- (a) Fees are listed in Appendix A of this Code of Ordinances.
- (b) The Town Board declares authorities of the Town need not pay for copying costs for public records.

(6) FORMAL REQUEST.

- (a) If the legal custodians of Town public records 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.
- (b) If the requesting person makes the request orally, the legal custodian may deny the request orally unless a demand for a written statement of the reason denying the request is made by the requester within five (5) business days of the oral denial.
- (c) If the legal custodian denies a written request, in whole, or in part, the requester 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 Chapter 19, Wisconsin Statutes, or upon application to the Attorney General or District Attorney of the County of Rusk.

- (7) 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. Certain records are exempt from public release, and may be withheld by the Town from disclosure pursuant to Wisconsin Statutes. Note: See the Town Attorney for specific questions.

4.06 TOWN OF WILLARD ORDINANCE TO ADOPT THE WISCONSIN MUNICIPAL RECORDS SCHEDULE

- (1) TITLE AND PURPOSE.** This ordinance is entitled the Town of Willard Ordinance to Adopt the Wisconsin Municipal Records Schedule. The purpose of this ordinance is to provide the legal custodian(s) of public records, in the possession of the Town of Willard, with the authority to retain and destroy those records.
- (2) AUTHORITY.** The Town Board of the Town of Willard, Rusk County, Wisconsin, has the specific authority under Section 60.83 and Section 19.21 (4), Wisconsin Statutes, to adopt an ordinance to address the management and destruction of public records.
- (3) ADOPTION OF WISCONSIN MUNICIPAL RECORDS SCHEDULE.** The Wisconsin Municipal Records Schedule, as approved by the Public Records Board on August 27, 2018, attached hereto and incorporated herein by reference, is hereby adopted by the Town Board as the Town's official record retention schedule.
- (4) NOTIFICATION TO WISCONSIN STATE HISTORICAL SOCIETY.** When a record has met the terms of the retention period, the record may be destroyed by the legal custodian of the records, provided the custodian has complied with the notification requirement set forth in s. 19.21(4), Wis. Stats., to the Wisconsin Historical Society.
- (5) CONFLICT.** In the event of any conflict between the terms of this ordinance and any applicable State statute, the applicable State statute shall control.
- (6) REVOCATION OF PRECEDING ORDINANCE.** This ordinance hereby revokes and supersedes any prior resolutions or ordinances adopted by the Town Board relating to the retention and/or destruction of public records of the Town of Willard.
- (7) EFFECTIVE DATE.** Adopted this 8th day of February, 2021.

4.07 PUBLIC BUILDINGS AND PUBLIC LAND ORDINANCE

- (1) TITLE AND PURPOSE.** This ordinance is entitled the "Town of Willard Buildings and Public Land Ordinance". The purpose of this ordinance is to document for the public the rights, responsibilities, and procedures maintained for public buildings and public lands in the Town of Willard.
- (2) AUTHORITY.** The Town Board has the specific authority, powers, and duties pursuant to Chapters 60 and 101, Wisconsin Statutes, and specific statutory authority, powers and duties with authorization of the Town meeting, to purchase, lease, construct and dispose of buildings and property for the Town and to manage and direct certain affairs related to Town buildings and lands.
- (3) ADOPTION OF ORDINANCE.** The Town Board has, by adoption of this ordinance, confirmed the specific statutory authority, powers, and duties, noted in Chapters 60 and 101, Wisconsin Statutes, and has established pursuant to these chapters, and this ordinance, the powers, and duties, of the Town Board relating to the control, construction, operation, and maintenance, of Town public buildings and Town public lands.

(4) HANDICAPPED ACCESS.

- (a) New Building.** The Town Board shall design, and construct, any new Town public building to allow physically disabled persons reasonable means of access including access from parking lots, if any, ancillary to the public building.
- (b) Minimum Requirements for Use of Public Buildings.** The Town Board shall comply with minimum requirements established by the State of Wisconsin to facilitate the use of Town public buildings by physically disabled persons where traffic might reasonably be expected by such physically disabled person. The Town Board shall comply with the minimum requirements established by the State of Wisconsin to ensure access to, and use of, the Town public buildings.
- (c) Parking Space Compliance.** The Town Board should not issue any authorizations to occupy any public building or private or public place of employment unless the owner thereof files with the Town Clerk a true certificate of compliance with the State law, State regulations and rules related to ensuring the access to, and use of, public buildings, or places of employment, relating specifically to the reservations, and marking, of parking spaces for use by a motor vehicle that is used by a physically disabled person.
- (d) Remodeling.** The Town Board shall meet the minimum regulations of the State of Wisconsin for remodeling of Town public buildings to ensure the access to, and use of, the public buildings by physically disabled persons. Any Town public buildings that are remodeled, unless excepted by rules of the State of Wisconsin, shall be designed, and constructed, to provide reasonable means of access for physically disabled persons.
- (e) Handicapped Access Grievance.** The Town Clerk shall receive any, and all, grievances related to handicapped access to the Town buildings. Whenever possible, the grieving party shall place the grievance in writing. The Town Clerk shall refer such grievance to the Town Board at the next regularly scheduled meeting of the Town Board. The Town Chair, upon receipt of the grievance, shall appoint a member of the Town Board to investigate the grievance, and to file a report, with the Town Board. The Town Board will comply with Federal and statutory regulations, including the Federal requirements under 31 CFR 51.55(A) 1-6, in investigating, and acting upon, such grievances.

(5) PUBLIC BUILDINGS AND PUBLIC LANDS ACCESS.

- (a) Authority for Public Access.** The Town Board has the authority to establish dates, and times, for public access to the public buildings and public lands owned, or leased, by the Town. In addition, the Town Board has the authority to place additional restrictions on the use of the public buildings and public lands owned, or leased, by the Town.
- (b) Town Hall.**
 - 1. The Town Board establishes the times, and dates, for public access to the Town Hall unless written notice to the contrary is posted at the usual, and customary, locations in the Town. The Town Hall will not be left open to the public unless permitted by the Town Board for a specific purpose.
 - 2. The Town Board shall be responsible for maintenance, and control, of the Town Hall. Town officers shall have keys to the Town Hall, and shall have the right to access of the Town Hall at all reasonable times.
- (c) Other Town Buildings.**
 - 1. The Town of Willard has the following other buildings:
 - a. Town Shop
 - b. Town Shed
 - c. Recycle Center Shed
 - 2. The Town Board establishes the dates, and times, for public access to these buildings. Town buildings will not be left open to the public unless permitted by the Town Board for a specific purpose.
- (d) General Regulations for Access to and from Public Buildings and Public Lands.**

The 'Town of Willard Public Safety Ordinance' shall apply to all persons in any Town public building, and on any Town public land.

 - 1. Loitering is prohibited. Continuing to loiter after a formal request to leave any Town public building, or Town public land, by the Town Chair, or the chief presiding officer of any public meeting, shall be considered disorderly conduct under this provision.
 - 2. Disorderly Conduct.
 - a. The Town does not permit contemptuous or insolent behavior to any Town official, employee, or agent, in any Town public building, and on any Town public land, when the officer, employee, or agent is on duty, or working for, the Town.
 - b. Any person who continues to violate this provision after a formal request by the chief presiding officer of any public meeting, or law enforcement officer, to cease the disorderly conduct shall be considered in violation of Wisconsin Statutes, and subject to penalties outlined in Appendix A.
 - 3. Litter and Discharge.
 - a. No person shall dispose, or discharge, any litter, solid waste, hazardous waste, garbage or any other refuse in any Town public building, or on the premises of any Town of Willard public land.
 - 1.) Exceptions:
 - a.) Disposal in containers authorized by the Town Board
 - b.) Disposal in accordance with a permit issued by the Town Board

- b. If any person fails to pick up any litter as required by the Town, within the time specified, the Town may arrange to have the same picked up by Town crews, or by private enterprise. The clean-up expense shall be charged to the person who did the littering. This charge shall be in addition to any forfeiture, or other penalty, for violation of this section.
- c. Any person who is convicted of a violation of this provision shall be subject to a penalty of not less than one dollar (\$1.00), and not more than two-hundred dollars (\$200.00), in addition to the Town of Willard's cost of prosecution including actual attorney fees.

Ordinance Chapter 4
Adopted this 9th day of May, 2022

Robert Nelson Yea Nay _____
Mark Taft Yea Nay _____
Linda Bentley Yea Nay _____

Attest: Mary Jane Nelson, Town Clerk