

## **CHAPTER 3**

### **TOWN ADMINISTRATION**

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### **3.01 REGISTRATION OF VOTERS.**

The process and procedure of registration of voters shall be carried out pursuant to the provisions contained in §6.26 through §6.57, Wis. Stats., including the provisions for same-day voter registration contained therein, which provisions are incorporated herein by reference as if fully set forth in these ordinances.

### **3.02 OPENING AND CLOSING OF POLLS.**

The polls at all general elections in the Town of Somers shall be opened at 7:00 a.m. and closed at 8:00 p.m.

### **3.03 NONPARTISAN PRIMARY.**

The nomination of all candidates for Town elective office shall be conducted pursuant to §8.05(3), Wis. Stats.

### **3.04 WEED COMMISSIONER.**

The Town Weed Commissioner shall be appointed in May of each year for a term of one (1) year by the Town Chairperson.

### **3.05 TRAVEL EXPENSES, PER DIEM.**

On all trips authorized or approved by the Town Board, officers and employees shall be reimbursed for expenses actually incurred in accordance with written guidelines therefore established by the Town Board, as may be revised from time to time, including all meals and room charges therefore unless disapproved by the Board and shall receive a per mile car allowance equal to that allowed by the Internal Revenue Service at the time of incurrence. Per diem allowances shall not be paid for hourly employees who receive their regular wage while on Town business.

### **3.06 PUBLIC RECORDS.**

#### **(A) Definitions.**

(1) "Authority" means any of the following Town entities having custody of a Town record: an office, elected official, agency, board, commission, municipal court, committee, counsel, department or other authority as enumerated in §19.32(1), Wis. Stats., or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(2) "Custodian" means that officer, department head, division head, or employee of the Town designated under subparagraph (c) below, 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.

(3) "Record" means 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 by 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 relations 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 which are available for sale, or which are available for inspection at a public library.

(B) **Duty to Maintain Records.**

(1) Except as provided under subparagraph (G), below, each officer and employee of the Town shall safely keep all records received from their predecessors. They shall also safely keep all records required by law to be filed, deposited or kept in their office or which are in the lawful possession or control of their office.

(2) Upon the expiration of one's term of office or employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody. The successor shall then give a receipt to the officer or employee, who shall file the receipt with the Town Clerk/Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to the Town Clerk/Treasurer.

(C) **Legal Custodian.**

(1) The Town Clerk/Treasurer, or the Deputy Clerk in the Town Clerk's absence, shall be the legal custodian of all Town records.

(2) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority pursuant to §19.33, Wis. Stats., and this section.

(D) **Public Access to Records.**

(1) Except as provided in subparagraph (F), below, any person 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) Records will be available for inspection and copying during all regular office hours.

(3) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon forty-eight (48) hours notice.

(4) A requester shall be permitted to use facilities comparable to those available to Town employees to inspect, copy or abstract a record, pursuant to §19.35(2), Wis. Stats.

(5) The legal custodian may require supervision during inspection and may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(6) 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 twenty-five (25¢) cents per page.

(b) If the form of a written record does not permit photocopying, 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. In addition, costs of complete copy of the Town ordinances, studies or other materials in bound form shall be their actual cost.

(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 exceeds Fifty (\$50.00) Dollars, 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 Five (\$5.00) Dollars.

(g) Elected and appointed officials of the Town of Somers shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(7) Pursuant to §19.34, Wis. Stats., each authority shall adopt, prominently display, and make available for inspection and copying at its offices a notice containing a description of its organization and the procedure by which the public may obtain access to records in its custody. This subsection does not apply to members of the Town Board.

(E) **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 of 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 §19.37, 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 subparagraph (D)(6)(f), above. 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 custodian, upon request for any record, shall, as soon as practicable either fill the request or notify the requester of the reasons for denying the request. 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 or her request in a manner which would permit reasonable compliance.

(3) A request for a record may be denied as provided in subparagraph (F), below. 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 (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, then the determination is subject to review upon petition for a writ of mandamus under §19.37(1), Wis. Stats., or upon application to the Attorney General or a district

attorney.

(F) **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 and 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 materials produced as a product of the computer program is subject to inspection; and

(d) A record or any portion of a record containing information qualifying as a common law trade secret.

(2) As provided by §43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.

(3) 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 the Town Attorney, may deny the request, in whole or in part, only if he determines that there would be harm to 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, compensations, 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 non-disclosure.

(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 §905.03, Wis. Stats.

(4) If a record contains information that may be made public and information that may not be made public, 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 non-disclosure of the exempt material, the entire record shall be withheld from disclosure.

(G) **Destruction of Records.**

(1) Town officers may destroy the following non-utility 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 Chapter 442, Wis. Stats., but not less than seven (7) 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 §16.61(3)(e), Wis. Stats.:

- (a) bank statements;
- (b) canceled checks;
- (c) receipt forms; and
- (d) vouchers.

(2) 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 Chapter 442, Wis. Stats., subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to §16.61(3)(e), Wis. Stats., except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two (2) years:

- (a) contracts;
- (b) excavation permits; and
- (c) inspection records.

(3) Town officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective, unless another period has been set by statute:

- (a) old insurance policies;
- (b) election notices; and
- (c) canceled registration cards.

(4) Unless notice is waived by the State Historical Society, at least sixty (60) days notice shall be given the State Historical society prior to the destruction of any record as provided by §19.21(4)(a), Wis. Stats.

(5) Any tape recordings of a governmental meeting of the Town may be destroyed, erased or reused no sooner than ninety (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.

(H) **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 or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in §16.61(7)(a) and (b), Wis. Stats., 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 state law and of subparagraphs (D) through (F), above.

(I) **Documents for Sale to the Public.** Except as otherwise provided herein, the fees shall be charged by the Clerk/Treasurer for specific documents created for sale to the public by motion of the Town Board:



- (1) Lists of residents of the Town - \$10.00
- (2) Lists of registered voters in the Town - \$2.50
- (3) Copies of tax bills - \$1.00 if personally picked up and \$5.00 if mailed.
- (4) Assessment/tax letters - \$30.00 per parcel.

### **3.07 PUBLICATION OF CERTAIN LEGAL NOTICES ON THE INTERNET.**

(A) **Purpose.** The publication of certain legal notices has been simplified by allowing legal notices to be published on certain internet sites maintained by Wisconsin newspapers for the purpose of providing and maintaining an electronic version of printed and published legal notices or internet sites maintained by a municipality.

(B) **Adoption of State Statutes.** Section 985.01(7), §985.02(2)(a), §985.02(2)(b), §985.02(2)(c), §985.02(3) and §985.08(1), Wis. Stats., relating to the publication of certain legal notices on an internet site maintained by a municipality, as may be amended from time to time, are hereby adopted by reference.

### **3.08 MUNICIPAL BOARD OF ABSENTEE CANVASSERS AND CENTRAL CANVASSING OF ABSENTEE BALLOTS.**

Pursuant to §7.52 and §7.53(2m), Wis. Stats., there is hereby established a Municipal Board of Absentee Canvassers which is authorized to conduct centralized counting of absentee ballots on election days as follows:

(A) The Municipal Board of Absentee Canvassers shall be composed of the Municipal Clerk/Treasurer, or a qualified elector of the municipality designated by the Clerk/Treasurer, and two (2) other qualified electors of the municipality appointed by the Clerk/Treasurer for a term of two (2) years commencing on January 1 of each odd-number year. The Clerk/Treasurer may appoint additional inspectors under §7.30(2)(a), Wis. Stats., to assist the Absentee Ballot Board of Canvassers in canvassing absentee ballots under this section.

(B) In lieu of canvassing absentee ballots at polling places under §6.88, Wis. Stats., the Municipal Board of Absentee Canvassers shall canvass all absentee ballots at elections held in the municipality at a location to be determined by the Clerk/Treasurer.

(C) The Municipal Clerk/Treasurer shall give at least forty-eight (48) hours notice of any meeting of the Municipal Board of Absentee Canvassers under this section which notice shall specify the location of the canvass of the absentee ballots.

(D) No later than the closing hour of the polls, the Clerk/Treasurer shall post at his or

her office and on the internet at a site announced by the Clerk/Treasurer before the polls open, a statement of the number of absentee ballots that the Clerk/Treasurer has mailed or transmitted to electors and that have been returned by the closing hour on election day. In addition, the Clerk shall make such a statement available to any person upon request.