

ORDINANCE NO. 2004-6
Chapter 6 - Town Records/ Town Property
Town of Troy Public Records and Public Property Ordinance
Ordinance Revisions

A. PUBLIC RECORDS AND PUBLIC PROPERTY ORDINANCE

Section 1:

This ordinance is entitled the "Town of Troy Public Records and Public Property Ordinance". The purpose of this ordinance is as follows:

Section 2: Authority

The Town Board of the Town of Troy has the specific authority, powers and duties, pursuant to Sec. 19.21, 19.22, 19.23, 19.31, 19.33, 19.34, 19.35, 19.36, 19.37, 19.84, 19.85, 60.22 and 60.83, (2001-2002) Wis. Stats., to manage and direct certain affairs related to the Town of Troy public records and Town of Troy public property.

Section 3: Adoption of Ordinance

The Town Board of the Town of Troy has, by adoption of this ordinance, confirmed the specific statutory authority, powers and duties in Chapters 19, and 60, (2001-2002) Wis. Stats., and has established by these chapters and this ordinance the statutory powers and duties of the Town Board of the Town of Troy related to the Town of Troy records and Town of Troy property.

Section 4: Public Record and Public Property Responsibilities

All public records and public properties belonging to the Town of Troy, including records and public properties of officers, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Troy, shall be safely kept, properly 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 Troy 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 Troy Ordinance.

Section 5: Public Records and Public Property Delivery

All public records and public properties of the Town of Troy, including records and properties of offices, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Troy, shall be delivered by the officer, employee or agent of these Town of Troy government units to the successor officer, employee or agent of these Town of Troy government units upon demand by the officer, employee or agent of these Town of Troy 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 Troy, 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 Troy 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 Troy. If a vacancy occurs before a successor is qualified, employed or retained by the Town of Troy, such public records and public properties shall be delivered to the Town Clerk of the Town of Troy. The Town Clerk of the Town of Troy shall acknowledge receipt and shall provide a receipt to the officer, employee, agent or legal representative. The Town Clerk of the Town of Troy shall receipt 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 Troy to the successor upon the latter's receipt of office, employment or retention with the Town of Troy.

Section 6: 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 Troy have designated the below noted as legal custodians of their public records.

(1.) Town Clerk

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

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:

(2.) Deputy Clerk

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 Troy 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:

**NOTICE OF AVAILABILITY OF PUBLIC RECORDS
19.34 (1) Wis. Stats.**

The Town of Troy Walworth County is an authority for the purpose of record keeping as defined in 19.34 (1), Wis. Stats. The Town of Troy Walworth County is responsible for the enforcement of laws and ordinances, the preservation of public peace and order, and to provide such other services as may be required by the Town Board or when resources allow the delivery of such services.

Records, defined under ss 19.34 (1) Wis. Stats., are retained at the Town of Troy Town Hall and are available for inspection to any person demanding same between the hours of **9:00 a.m. and 11:00 a.m. on Wednesdays**, excluding holidays. The Town of Troy custodian of records shall require a written request and a 24 hour notice, for production of documents.

The Clerk is the legal custodian of the records of the Town of Troy, Walworth County, WI. The Town Board has designated the Town Clerk and the Deputy Town Clerk, as record custodians, and records and information may be obtained from them. Certain records or portions of records retained at the Town of Troy Town Hall are exempt from inspection and/or copying pursuant to ss 19.36 (2) 895.50, 905.09 and 905.10 Wis. Stats., and to the Federal Freedom of Information Act.

No person will be allowed to remove an original Town of Troy record from the Town of Troy Town Hall office.

The Town of Troy is not required to purchase or lease photocopy, duplicating, photographic or other equipment or to provide a separate room for inspection, copying

or abstracting of records.

(1.) The following fees will be charged for providing copies of Town of Troy records.

- PHOTOCOPIES: \$ 0.25 per page.
- PHOTOGRAPHS: The actual, necessary and direct cost of providing a photograph.
- VIDEO TAPE: The actual, necessary and direct cost of providing a video tape copy.
- AUDIO TAPE: The actual, necessary and direct cost of providing an audio tape copy, or for providing a transcript of the recording if desired.

(2.) The actual, necessary and direct transcript cost of mailing or shipping any of the above.

(3.) If the cost of locating a record retained by the Town of Troy exceeds \$50.00, that cost will be charged to the person making the request.

(4.) Additionally, if the total cost of reproduction and/or location of a record exceeds \$5.00, prepayment may be required before the record is provided to any person.

The Town Board of the Town of Troy, for the below noted offices, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Troy, 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.

(Emergency Government Committee, Town of Troy Planning Committee, Town of Troy Building & Roads Committee, Town of Troy Fundraising Committee, Booth Lake Memorial Park, Library Committee, Booth Lake Management, Lake District)

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:

Wednesdays, excluding holidays, 9:00a.m. to 11:00 a.m.

If 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 hours 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 Troy 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, (2001-2002) 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 the person demanding access that there is a need to restrict public 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.

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 Sec. 19.85, (2001-2002) Wis. Stats.

d. Copying/ Photographing Public Records

The legal custodian shall comply with the provisions of Sec. 19.35, (2001-2002) 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 Troy declares the following records irreplaceable or easily damaged and establishes the following conditions for access and copying:

The Town Board of the Town of Troy has the following facilities (if any) for inspection, copying and abstracting the records during established office hours.

(Town of Troy Town Hall, N8870 Briggs Street, East Troy, WI 53120)

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

(1.) The following fees will be charged for providing copies of Town of Troy records.

- | | |
|--------------|--|
| PHOTOCOPIES: | \$ 0.25 per page. |
| PHOTOGRAPHS: | The actual, necessary and direct cost of providing a photograph. |
| VIDEO TAPE: | The actual, necessary and direct cost of providing a video tape copy. |
| AUDIO TAPE: | The actual, necessary and direct cost of providing a audio tape copy, or for providing a transcript of the recording if desired. |

(2.) The actual, necessary and direct cost of mailing or shipping any of the above.

(3.) If the cost of locating a record retained by the Town of Troy exceeds \$50.00, that cost will be charged to the person making the request.

(4.) Additionally, if the total cost of reproduction and/or location of a record exceeds

\$5.00, prepayment may be required before the record is provided to any person.

(5.) The Town Board of the Town of Troy declares offices, special offices, committees, commissions, agencies, authorities, boards and other special government units of the Town of Troy 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 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 Troy, 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 Troy receives a request for a record, they shall as soon as practicable and without delay either fill the request or notify the requesting person of the decision 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 Troy 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), (2001-2002) Wis. Stats., or upon application to the attorney general or district attorney of the County of Walworth.

g. Record Destruction

The Town Board of the Town of Troy, 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 Troy 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, (2001-2002) 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. 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, (2001-2002) Wis. Stats., from public release and may be withheld by the Town of Troy 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.
- 6) Any record not to be disclosed as a public record under the public policy provision of Sec. 19.85, (2001-2002) Wis. Stat., related to open meetings.

Section 7: Notice to Historical Society *Repealed Ord. 2014-2 1-8-14 by State*

The Town Board of the Town of Troy, 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 Troy and their officers, their employees and their agents of the aforesaid, prior to the destruction of any public records belonging to the Town of Troy, 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 Troy shall not be requested, pursuant to Sec. 19.21, (2001-2002) Wis. Stats., to provide notice to the State Historical Society of Wisconsin if the Town Board previously, by application, has received

a waiver.

Section 8: Conditions and Terms for Destruction of Public Records *Repealed Ord 2014-2
1-8-14 cm. Stute*

a. Types of Records Destroyed

The Town Board of the Town of Troy, 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 Troy and their officers, their employees and their agents of the aforesaid shall destroy the following public records of the Town of Troy only upon the conditions noted below and at the time noted below:

1) Obsolete Utility Records

If the Town Board of the Town of Troy, 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 Troy and their officers, their employees or their agents of the aforesaid are the legal custodians of the public utility records of the Town of Troy. If the public utility records are considered obsolete, the above noted, as custodians, may destroy the following public utility records of the Town of Troy at anytime two (2) years after the record was effective:

- a. Water Stubs
- b. Receipts of Current Billings
- c. Customers Ledgers

All other public utility records of the Town of Troy, the above noted custodians may destroy 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), (2001-2002) Wis. Stats., and then only after that shorter time period.

2) Obsolete Financial Records

All financial records of the Town of Troy that are not utility records, the Town Board of the Town of Troy, 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 Troy and their officers, their employees or their agents of the aforesaid, who are the legal custodians of these financial records of the Town of Troy, 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), (2001-2002) Wis. Stats., and then only after that shorter time period.

3) Other Obsolete Records

All other public records of the Town of Troy that are not utility or financial records, the Town Board of the Town of Troy, 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 Troy and their officers, their employees or their agents of the aforesaid who are the legal custodians of these records of the Town of Troy, 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), (2001-2002) Wis. Stats., and then only after that shorter time period. No assessment roll containing forest crop acreage in the Town of Troy may be destroyed without prior approval of the Department of Revenue.

Section 9: Specific Date of Destruction for Specific Public Records *Repealed Ord. 2014-2 1-8-14 4m. Statute*

The Town Board of the Town of Troy desires specifically that the following public records of the Town Board of the Town of Troy, its offices, its special offices, its committees, its commissions, its agencies, its authorities, its boards or other special government units of the Town of Troy not be destroyed indefinitely:

- a. Tax Receipts for the Town of Troy by the Town of Troy
- b. Contracts and Insurance Policies Issued to Town of Troy
- c. Legal Claims against the Town of Troy

Section 10: Taped Records of Meetings *Repealed Ord. 2014-2 1-8-14 4m. Statute*

The Town Board of the Town of Troy, any office, any special office, committee, any commission, any agency, any authority, any board or any other special government units of the Town of Troy 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 government unit if the purpose of the tape recording was to make and maintain minutes

of the public meeting.

Section 11: Microfilm Records *Repealed Ord. 2014-2 1-8-14 4m. State*

The Town Board of the Town of Troy authorizes that the following public records of the Town Board of the Town of Troy, its offices, its special offices, its committees, its commissions, its agencies, its authorities, its boards and any other special government units of the Town of Troy shall be kept and preserved on microfilm and that the following public records of the Town of Troy will not be kept and preserved in this manner. The microfilm records shall be under the custody of the Town Clerk of the Town of Troy. These records shall be stored for safekeeping and shall be conveniently accessible to the general public at Troy Town Hall. The Town Clerk of the Town of Troy shall comply with the applicable standards established in Sec. 16.61(7), (2001-2002) Wis. Stats., in order that these public records of the Town of Troy may be deemed original records. The Town Board of the Town of Troy or its designee shall at least annually review the reproduction of the microfilm and storage of the microfilm in order to assure proper micrographic protection and in order to assure legibility and permanence of the microfilm copy.

The following public records of the Town Board of the Town of Troy, its offices, its committees, its commissions, its agencies, its authorities, its boards and any other special government units of the Town of Troy shall be solely kept and preserved on microfilm:


No public records on microfilm

The following public records of the Town Board of the Town of Troy, its offices, its committees, its commissions, its agencies, its authorities, its boards and any other special government units of the Town of Troy shall not be kept and preserved on microfilm:

(No public records on microfilm)

Dated this 10th day of March, 2004.

Town of Troy,

By: 
Allen Curler, Chairman

Attest: 
Ruth Polinski, Clerk

Date Posted: 3-11-04