

TOWN OF LANARK

PUBLIC RECORDS AND PUBLIC PROPERTY ORDINANCE

6-1996

Section 1: Title/Purpose

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

1. To clearly define responsibilities regarding the custody of public records and public property.
2. To ensure the succession of records upon expiration of office or employment.
3. To designate the custodian of records.
4. To note the means of public access to records and for copying records.
5. To list the conditions for the destruction of public records.

Section 2: Authority

The Town Board of the Town of Lanark 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, (1993-94) WI Statutes, to manage and direct certain affairs related to Town of Lanark public records and Town of Lanark public property.

Section 3: Adoption of Ordinance

The Town Board of the Town of Lanark has, by adoption of this ordinance, confirmed the specific statutory authority, powers and duties in Chapters 19, and 60, (1993-94) WI Statutes, and has established by these chapters and this ordinance the statutory powers and duties of the Town Board of the Town of Lanark related to Town of Lanark records and Town of Lanark property.

Section 4: Public Record and Public Property Responsibilities

All public records and public properties belonging to the Town of Lanark, including records and public properties of officers, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town of Lanark, 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 Lanark 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 Lanark Ordinance.

Section 5: **Public Records and Public Property Delivery**

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

Section 6: **Public Record Access**

a. **Custodian of Records**

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

The deputy custodian for any public record shall be the Chair of the Board of Supervisors of the Town of Lanark.

b. **Public Notice of Record Location**

The Town of Lanark has not established any regular schedule or regular office hours for the legal custodian. 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 Town of Lanark 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, (1993-94) WI Statutes, 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 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 (1993-94) WI Statutes.

d Copying/Photographing Public Records

The legal custodian shall comply with the provisions of Sec. 19.35 (1993-94) WI 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. 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 meet. 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 Lanark declares the following records irreplaceable or easily damaged and establishes the following conditions for access and copying:

Town Record Book of Highways - the record requester must allow the legal custodian to locate the specific record for visual viewing. Any copying of these records must be made manually by the requester, by computer scanner or other such means the legal custodian deems appropriate so as not to damage the book's binding or fragile pages.

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

Per page of copied material: \$0.10 for letter size and \$0.15 for legal for Town residents and Town taxpayers; \$0.25 for letter size and \$0.30 for legal for any other requesters; over 100 copies shall have the fee doubled for any requester.

The Town Board of the Town of Lanark declares offices, special offices, committees, commissions, agencies, authorities, boards and other special government units of the Town of Lanark 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 Lanark 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 legal custodian(s) of the Town of Lanark 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.

If the requesting person makes the request orally, the previously noted legal custodian(s) of the Town of Lanark 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 legal custodian(s) 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 shall include a notice that this determination for denial is reviewable by mandamus under Sec. 19.37(1), (1993-94) WI Statutes, or upon application to the attorney general or district attorney of the County of Portage.

g. Record Destruction

The Town Board of the Town of Lanark, 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 Lanark 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, (1993-94) WI Statutes, 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, (1993-94) WI Statutes, from public release and may be withheld by the Town of Lanark 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) Any record or a portion of a record containing information qualifying as a common law trade secret.
- 4) Any record not to be disclosed as a public record under the public policy provision of Sec. 19.85, (1993-94) WI Statutes, related to open meetings.

Section 7: Notice to Historical Society

The Town Board of the Town of Lanark, 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 Lanark and their officers, their employees and their agents of the aforesaid, prior to the destruction of any public records belonging to the Town of Lanark, 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 Lanark shall not be requested, pursuant to Sec. 19.21, (1993-94) WI Statutes, 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 a. Types of Records Destroyed

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

1) Obsolete Financial Records

All financial records of the Town of Lanark, the Town Board of the Town of Lanark, 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 Lanark and their officers, their employees or their agents of the aforesaid, who are the legal custodians of these financial records of the Town of Lanark, if these financial records are considered obsolete, the above noted legal custodian(s) 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), (1993-94) WI Statutes, and then only after that shorter time period.

2) Other Obsolete Records

All other public records of the Town of Lanark that are not financial records, the Town Board of the Town of Lanark, 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 Lanark and their officers, their employees or their agents of the aforesaid who are the legal custodians of these records of the Town of Lanark, if these records are considered obsolete, the above noted legal custodian(s) 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), (1993-94) WI Statutes, and then only after that shorter time period. No assessment roll containing forest crop acreage in the Town of Lanark may be destroyed without prior approval of the Department of Revenue.

Section 9: Specific Date of Destruction for Specific Public Records

The Town Board of the Town of Lanark desires specifically that the following public records of the Town Board of the Town of Lanark, its offices, its special offices, its committees, its commissions, its agencies, its authorities, its boards or other special government units of the Town of Lanark not be destroyed until after the years listed below:

- a. Tax Receipts for the Town of Lanark -- 15 years after the receipt was issued by the Town of Lanark
- b. Contracts and Insurance Policies Issued to the Town of Lanark -- 15 years after the policy was issued to the Town of Lanark
- c. Legal Claims against the Town of Lanark -- 15 years after the claim was noticed to the Town of Lanark
- d. Receipt Journal of the Treasure of the Town of Lanark -- 15 years after the record was effective
- e. General Ledger of the Clerk of the Town of Lanark --15 years after the record was effective and then to be transferred to the State Historical Society
- f. Engineering and Public Works maps, plats, logs, and books are to be retained permanently.

The legal custodian(s) shall consult the "Wisconsin Municipal Records Manual" published by the State Historical Society of Wisconsin and the Wisconsin Department of Development, c. 1980, before destruction of records.

Section 10: Taped Records of Meetings

The Town Board of the Town of Lanark, any office, any special office, committee, any commission, any agency, any authority, any board or any other special government units of the Town of Lanark and their offices, 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. Board of Review proceedings on tape shall be maintained seven (7) years after the final action of the board.

PUBLIC RECORDS AND PUBLIC PROPERTY ORDINANCE ADOPTED: By order of the Town Board on June 10, 1996

To be effective upon posting. Posted June 20, 1996