

CHAPTER 3
PUBLIC RECORDS

SECTION 3.01 PUBLIC RECORDS.....	3.01-1
(a) Definitions.....	1
(b) Legal Custodian.....	1
(c) Public Access to Records.....	1
(d) Fees for Locating and Copying Records.....	2
(e) Access Procedures.....	3
(f) Destruction of Records.....	3
(g) Severability.....	5
SECTION 3.02 CONFIDENTIALITY OF INCOME AND EXPENSE RECORDS... 3.02-1	
(a) Title/Purpose.....	1
(b) Authority.....	1
(c) Adoption of Ordinance.....	1
(d) Adoption by Reference/Confidentiality Requirement.....	1
(e) Exceptions to Confidentiality.....	1
(f) Penalty Provisions.....	2
(g) Severability.....	2

SECTION 3.01 **PUBLIC RECORDS.****(a) Definitions.**

- (1) **Record.** 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, Ordinances, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts.
- (2) **Authority.** 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, law, Ordinance, rule or order; or a formally constituted sub-unit of the foregoing.

(b) Legal Custodian.

- (1) The Town Clerk, or in his or her absence or disability the Clerk's designee, is hereby designated 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 under Wis. Stats. Ch. 19, Subch. II, and this Ordinance. The designation of a legal custodian does not affect the powers and duties of an authority under this Ordinance.

(c) Public Access to Records.

- (1) Except as provided in Sub. (e)(2), 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).
- (2) A requestor has the right to call or appear in person and request an inspection or a copy of a record during regular hours posted for such at the Clerk's office. Depending on the availability of the record, the Clerk may make it immediately available or set a time that the record will be produced for inspection or copying. (See (7) below)
- (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 at least 48 hours advance notice of intent to inspect or copy.
- (4) A requester shall be permitted to use facilities comparable to those available to Town employees to inspect, copy or abstract a record.

- (5) The legal 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.
 - (6) Although not mandatory, the requester may be asked to fill out a records request form to better assist the Clerk in fulfilling the request.
 - (7) In accordance with the State Attorney General's opinion, 10 working days is a reasonable response time to respond to a specific that meets the statutory requirement of "as soon as practicable and without delay". When large quantities of records or complex copying procedures are involved, longer response times may be appropriate.
- (d) **Fees for Locating and Copying Records.**
A requester shall be charged a fee to defray the cost of locating and copying records as follows:
- (1) The cost of photocopying shall be as specified on the current Town of Dekorra Fee Schedule. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction. In the alternative, if photocopying is done utilizing a commercial photocopy service, the cost of copying shall be the actual cost charged to the Town by the commercial copying service.
 - (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged according to the Town Fee Schedule under Section 1.04.
 - (3) 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 according to the Town Fee Schedule under Section 1.04. Where records are kept electronically, the Town shall charge the cost of the floppy disk or other storage medium on which data is downloaded and provided to the requester.
 - (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged according to the Town Fee Schedule under Section 1.04.
 - (5) There shall be no charge for the Clerk's or others time spend in locating a record unless the actual cost therefor exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
 - (6) The legal custodian shall require prepayment of the estimated cost of applicable fees and charges if such estimate exceeds \$5.00.

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

(e) **Access Procedures.**

- (1) A request to inspect or receive a copy of 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. 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 permissible 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 under Sub. (d)(6). 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) The legal 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 therefor. 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 Sub. (e)(2). 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 District Attorney.

(f) **Destruction of Records.**

- (1) Town officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Wis. Stats. Ch. 442, but not less than seven 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 and Forms Board pursuant to Wis. Stats. § 16.61(3)(e) and then after such shorter period:

- (A) Bank statements, deposit books, slips and stubs;
 - (B) Bonds and coupons after maturity;
 - (C) Canceled checks, duplicates and check stubs;
 - (D) License and permit applications, stubs and duplicates;
 - (E) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund;
 - (F) Receipt forms;
 - (G) Special assessment records; and
 - (H) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (2) Town officers may destroy the following records of which they are the legal custodians and which are considered obsolete, but not less than seven years after the record was effective unless another period has been set by statute, and then after such period, or unless a shorter period has been fixed by the State Public Records and Forms Board pursuant to Wis. Stats. § 16.61(3)(e), and then after such shorter period:
- (A) Contracts and papers relating thereto;
 - (B) Correspondence and communications;
 - (C) Financial reports other than annual financial reports;
 - (D) Oaths of office;
 - (E) Reports of Boards, Commissions, Committees and officials duplicated in the Town Board proceedings;
 - (F) Election notices and proofs of publication;
 - (G) Canceled voter registration cards;
 - (H) Official bonds; and
 - (I) Resolutions and petitions, providing the text of the same appears in the official Town Minutes.
- (3) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to shorter time schedules as provided by Wis. Stats. § 7.23.
- (4) Unless notice is waived by the State Historical Society, at least sixty days' notice shall be given the State Historical Society prior to the destruction of any records as provided by Wis. Stats. § 19.21(4)(a).
- (5) Any tape recordings of a governmental meeting of the Town may be destroyed, erased or reused no sooner than ninety days after the Minutes of the meeting have been approved and posted or published, if the purpose of the recording was to make minutes of the meeting.

(g) **Severability.**

The provisions of this Ordinance are severable. If a section, subsection paragraph, sentence, clause or phrase shall be adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the validity of this Ordinance.

History Note: Adopted through codification. Amended June 8, 2004 Ordinance No. 6-2004; amended September 12, 2006 by Ordinance 07-2006; amended December 11, 2007 by Ordinance No. 2007-10.

SECTION 3.02 CONFIDENTIALITY OF INCOME AND EXPENSE RECORDS**(a) Title/Purpose.**

This ordinance is entitled the Town of Dekorra Ordinance Relating to Confidentiality of Income and Expense Records. The purpose of this ordinance is to provide confidentiality of the records of taxpayers who provide income and expense record information to the town assessor under Wis. Stats. § 70.47(7)(af), and to exempt that information from being subject to the right of inspection or copying as a public record under Wis. Stats. § 19.35 (1).

(b) Authority.

The town board of the Town of Dekorra, Columbia County, Wisconsin, has the specific authority under Wis. Stats. § 70.47(7)(af), to provide confidentiality to taxpayers of certain income and expense records provided to the town assessor by these taxpayers for purposes of valuation of real property in the town of Dekorra, owned by those taxpayers.

(c) Adoption of Ordinance.

The town board, by this ordinance, adopted on proper notice, with a quorum and a roll call vote by a majority of the town board present and voting, provides for the confidentiality of information regarding income and expenses under Wis. Stats. § 70.47(7)(af), that is provided to the town assessor and, unless a court determines that the information is inaccurate, the information provided to the assessor is not subject to the right of inspection or copying as a public record under Wis. Stats. § 19.35(1).

(d) Adoption by Reference/Confidentiality Requirement.

This ordinance adopts by reference Wis. Stats. § 70.47(7)(af). Income and expense information provided by a property owner to the town assessor for the purposes of establishing and valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under Wis. Stats. § 19.35(1).

(e) Exceptions to Confidentiality.

A town officer in the Town of Dekorra may make public disclosure or allow access to information of income and expense information provided by a property owner to the town assessor for the purposes of establishing and valuation for assessment purposes by the income method of valuation in his or her possession as provided below:

- (1) The town assessor shall have access to such information in the performance of his or her duties.
- (2) The board of review may review the income and expense information when needed, in its opinion, to decide upon a contested assessment.

- (3) Any person or body who has the right or whose duty in his or her office is to review such information shall have access to such information.
 - (4) A town officer who is complying with a court order may release the information in accordance with the court's order.
 - (5) If the information provided has been determined by a court to be inaccurate, the information is open and public.
 - (6) If the property owner has provided written approval for public disclosure or limited disclosure to that person, and the town board of the Town of Dekorra has approved the disclosure the information is open and public to the extent approved.
- (f) **Penalty Provisions.**
Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, be subject to penalty as set forth in Section 1.03 of this Code. Each day a violation exists or continues shall be considered a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.
- (g) **Severability.**
If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision of application, and to this end, the provisions of this ordinance are severable.

History Note: The above and foregoing Ordinance was duly adopted at a regular Town Board meeting of the Town of Dekorra on the 19th day of April 2005, Ordinance 7-2005; amended through 2009 codification.