

Access to Public Records

Chapter 2 Access to Public Records

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Chapter 2 Access to Public Records

Sec. 4-2-1 Definitions.

- (a) **Authority.** Any Bayfield County entities having custody of a County 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 subunit of the foregoing.
- (b) **Custodian.** That officer, department head, division head, or employee of the County designated under Section 4-2-3 or otherwise responsible by law to keep and preserve any County 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.
- (c) **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, 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 relation 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.
- (d) **Direct Cost.** The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) **Actual Cost.** The total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

Sec. 4-2-2 Duty to Maintain Records.

- (a) Except as provided under Title 4, Chapter 1, "Records Retention," each officer and employee of the County shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

- (b) Upon the expiration of an officer's term of office or an employee's term of 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 and the successor shall receipt therefor to the officer or employee. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the County Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

Sec. 4-2-3 Legal Custodian(s).

- (a) **Legal Custodians.** Bayfield County, a political subdivision of the State of Wisconsin, consists of a governing board of supervisors, committees of the board and statutory committees, elected and appointed administrative officials, and a number of offices and departments, each of which is headed by an elected or appointed official and overseen by a committee. The County has designated a number of legal custodians of its various records as listed below:
- (1) **Administrator of the Child Support Agency**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 187, Washburn, WI 54891, (715)373-6106, is the legal custodian of the records of the Child Support Agency.
 - (2) **Bayfield County Clerk of Courts**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 536, Washburn, WI 54814, (715) 373-6108, is the legal custodian of the records of the Clerk of Courts' Office and the Bayfield County Circuit Court.
 - (3) **Corner**, Route #1, Box 79, Washburn, WI 54891, (715) 373-6301, is the legal custodian of the Corner's records.
 - (4) **Corporation Counsel**, 249 Rittenhouse Avenue, P.O. Box 1316, Bayfield, WI 54814, (715)779-5184, is the legal custodian of the Corporation Counsel's records.
 - (5) **County Clerk**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 878, Washburn, WI 54891, (715)373-6100, is the legal custodian of the records of the Bayfield County Clerk's Office, the Bayfield County Board of Supervisors, the Block Grant Committee (non-financial records), the Development and Land Sales Committee, the Executive Committee, the Library and Education Committee, the Personnel Committee, and the Tribal Study Committee.
 - (6) **County Conservationist**, 2012 West Third Street, P.O. Box 267, Ashland, WI 54806, (715)682-7187, is the legal custodian of the records of the Land Conservation Committee and the Ashland, Bayfield, Douglas, Iron Counties Land Conservation Department.

- (7) **Bayfield County District Attorney**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 487, Washburn, WI 54891, (715)373-6111, is the legal custodian of the records of the District Attorney's Office.
- (8) **Director of Emergency Government**, Bayfield County Courthouse Annex, 117 East Sixth Street, Washburn, WI 54891, (715)373-6113, is the legal custodian of the records of the Emergency Government Office and the records of the Sheriff's Emergency Government and Veterans' Service Committee pertaining to Emergency Government.
- (9) **Family Court Commissioner**, 5141/2 Main Street West, Ashland, WI 54806, (715)682-9456, is the legal custodian of records of the Family Court Commissioner not constituting records of legal proceedings kept by the Clerk of Courts' Office.
- (10) **Forestry and Parks Administrator**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 445, Washburn, WI 54891, (715)373-6114, is the legal custodian of the Forestry and Parks Department records and records of the Forestry and Parks Committee.
- (11) **Director of the Health Department**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 403, Washburn, WI 54891, (715)373-6109, is the legal custodian of the Health Department records and the records of the County Health Board.
- (12) **Highway Commissioner**, 311 West First Avenue, P.O. Box 428, Washburn, WI 54891, (715)373-6115, is the legal custodian of the Highway Department records and the records of the Highway Committee.
- (13) **Juvenile Court Intake Worker**, Bayfield County Courthouse Annex, 117 East Sixth Street, P.O. Box 86, Washburn, WI 54891, (715)373-6107, is the legal custodian of the records of the Court Intake Worker's Office.
- (14) **Land Records Coordinator**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 878, Washburn, WI 54891, (715)373-6156, is the legal custodian of the records of the Land Records Department.
- (15) **Register of Deeds**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 813, Washburn, WI 54891, (715)373-6119, is the legal custodian of the records of the Register of Deed's Office.
- (16) **Sheriff**, Bayfield County Courthouse Annex, 117 East Sixth Street, P.O. Box 813, Washburn, WI 54891, (715)373-6120, is the legal custodian of the records of the Sheriff's Department and the records of the Sheriff's Emergency Government and Veterans' Service Committee pertaining to the Sheriff's Department and Law Enforcement.

- (17) **Director of the Human Services Department**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 100, Washburn, WI 54891, (715)373-6144, is the legal custodian of the records of the Human Services Department and the records of the Human Services Board.
 - (18) **Tourism and Recreation Director**, Bayfield County Courthouse Annex, 117 East Sixth Street, P.O. Box 832, Washburn, WI 54891, (715)373-6125, is the legal custodian of the records of the Tourism and Recreation Department and Tourism and Recreation Committee.
 - (19) **Treasurer**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 397, Washburn, WI 54891, (715)373-6131, is the legal custodian of the records of the Bayfield County Treasurer's Office and the Block Grant Committee Records (financial).
 - (20) **Office Chairperson of the University of Wisconsin Extension Office**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 218, Washburn, WI 54891, (715)373-6104, is the legal custodian of the records of the University of Wisconsin Extension Office and the UW Extension, Fair and Fencing Committee.
 - (21) **Veterans' Service Officer**, Bayfield County Courthouse Annex, 117 East Sixth Street, P.O. Box 367, Washburn, WI 54891, (715)373-6137, is the legal custodian of the records of the Veterans' Service Office and the Sheriff's Emergency Government and Veteran's Service Committee pertaining to Veterans' Service matters.
 - (22) **Zoning Administrator**, Bayfield County Courthouse, 117 East Fifth Street, P.O. Box 58, Washburn, WI 54891 (373-6138, is the legal custodian of the records of the Zoning Department, Zoning Committee, and the Board of Adjustment.
- (b) **Elected Officials.** Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the County Clerk to act as the legal custodian.
 - (c) **Other Boards.** Unless provided in Subsection (c), the County Clerk or the County Clerk's designee shall act as legal custodian for the County Board of Supervisors, and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the County Board of Supervisors and not otherwise designated in Subsection (a) above.
 - (d) **Deputy Custodians.**
 - (1) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the

officer may designate an employee of his or her staff to act as the legal custodian.

- (2) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the County Clerk.

Sec. 4-2-4 Public Access to Records.

- (a) Except as provided in Section 4-2-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.
- (b) Members of the public may obtain information and access to the County's public records or obtain copies of such records by contacting the legal custodian of the records sought at the address indicated below, either in writing or in person between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excepting holidays. If it is not known which legal custodian has the records sought, such information should be requested from the Bayfield County Clerk.
- (c) 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 forty-eight (48) hours' advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to County employees to inspect, copy or abstract a record.
- (e) 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.
- (f)
 - (1) Photocopies of the County's public records consisting of pages up to 8½ x 14" in size may be obtained for twenty-five cents (25¢) per page, unless another rate for the copy has been established by Statute, in which case, the statutory rate shall apply. Larger records or records which cannot be photocopies may be obtained for the actual cost of copying them. A person requesting copies in person may be required to make his/her own copies, or county personnel may do the copying, at the legal custodian's option. The legal custodian may require that a copy request costing more than Five Dollars (\$5.00) be prepaid. A person requesting copies by mail must also pay for the cost of mailing the copies to the requester.
 - (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.

- (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-and video-tapes, shall be charged.
- (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
- (5) There shall be no charge for locating a record unless the actual cost therefore exceeds Fifty Dollars (\$50.00), in which case the actual locating cost shall be determined by the legal custodian and billed to the requester.
- (6) 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 Dollars (\$5.00).
- (7) Elected and appointed officials of the County shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the County Board of Supervisors.

Sec. 4-2-5 Access Procedures.

- (a) 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 or 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 Sec. 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 Section 4-2-4(f)(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.

- (b) Each 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 Corporation Counsel, 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.
- (c) A request for a record may be denied as provided in Section 4-2-6. 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 Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

Sec. 4-2-6 Limitations on Right to Access.

- (a) Certain of the County's records may not be open for public inspection because of their legally recognized confidential nature. If the legal custodian determines a requested record to be confidential, he/she shall notify the requester of the decision and the basis for it. If the requester objects to the decision, he/she may make a written request to the Bayfield County Corporation Counsel, whose office is at 249 Rittenhouse Avenue, P.O. Box 1316, Bayfield, WI 54814, to review the matter.
- (b) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
 - (2) 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;
 - (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and

- (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
- (c) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.
- (d) 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 Corporation Counsel or District Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh 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:
 - (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
 - (2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
 - (3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any County officer or employee, or the investigation of charges against a County officer or employee, unless such officer or employee consents to such disclosure.
 - (4) Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
 - (5) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of County property, investing of County funds, or other County business whenever competitive or bargaining reasons require nondisclosure.
 - (6) Pursuant to Sec. 19.85(1)(f), Wis. Stats., 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.
 - (7) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the County and any officer, agent or employee of the County, when advice is being rendered concerning strategy with respect to current

litigation in which the County or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.

- (8) Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.

- (e) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Corporation Counsel prior to releasing any such record and shall follow the guidance of the Corporation Counsel when separating out the exempt material. If, in the judgment of the custodian and the Corporation Counsel, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.