

## TITLE 2

### Government and Administration

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## CHAPTER 1

### General Provisions and Elections

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### **SEC. 2-1-1 LEGAL STATUS; GENERAL TOWN POWERS.**

- (a) The Town of Marion is a body corporate and politic, with those powers granted by law. The Town shall be designated in all actions and proceedings by its name, as the Town of Marion.
- (b) The Town may:

- (1) Sue and be sued.
- (2) Acquire and hold real and personal property for public use and convey and dispose of the property.
- (3) Enter into contracts necessary for the exercise of its corporate powers.

State Law Reference: Section 60.01, Wis. Stats.

### **SEC. 2-1-2 VILLAGE POWERS.**

The Town Meeting having, by resolution, directed the Town Board to exercise all powers relating to villages and conferred on village boards by chapter 61, Wis. Stats., the Town shall have said powers through its Board.

State Law Reference: Sections 60.10(2)(c), 60.22(3) and Ch. 61, Wis. Stats.

### **SEC. 2-1-3 POLLING PLACE.**

The polling place serving all wards in the Town of Marion shall be the Marion Town Hall, located in Ward 1.

State Law Reference: Section 5.25(2), Wis. Stats.

### **SEC. 2-1-4 ELECTION POLL HOURS; WORKERS.**

- (a) The voting polls in the Town of Marion, Waushara County, Wisconsin, shall be open from 8:00 p.m. for all elections.
- (b) The Town Clerk is authorized to determine the number of poll workers needed on election days.

### **SEC. 2-1-5 OFFICIAL NEWSPAPER.**

The official newspaper of the Town of Marion shall be the Waushara Argus.

### **SEC. 2-1-6 WARDS.**

Pursuant to Sec. 5.15, Wis. Stats., relating to the division of towns and municipalities into wards, the Town of Marion has established the following plan of districting wards. The plan, depicted on a Town of Marion map, a copy of which is incorporated herein by reference, is described as follows:

- (a) **Ward 1 –Enumeration District 427.** The point of beginning being the northeast corner of the Township of Marion; thence westerly along the north line of Sections 1 through 6 of said Township to the northwest corner thereof; thence southerly along the west line

of Section 6 of said Township to its intersection with the centerline of the S.T.H. "73"; thence southeasterly along the center line of said S.T.H. "73" to its intersection with the centerline of C.T.H. "F"; thence to its intersection with the centerline of C.T.H. "N" to the northeast; thence northeasterly, easterly, northerly, easterly and northeasterly along the centerline of said C.T.H. "N" to its intersection with the east line of said Township of Marion; thence northerly along the east line of Sections 13, 13, and 1 of said Township to the northeast corner thereof and the point of beginning. Excluding therefrom those parts annexed to the Village of Lohrville.

**(b) Ward 2 – Enumeration District 428.** The point of beginning being the southwest corner of the Township of Marion; thence northerly along the west line of Sections 31, 30,19,18, 7 and 6 of said Township to its intersection with the centerline of S.T.H. "73"; thence southeasterly along the centerline of said S.T.H. "73" to its intersection with the centerline of C.T.H. "F"; then southeasterly, easterly, and southeasterly along the centerline of C.T.H. "F" to its intersection with the centerline of C.T.H. "N" to the northeast; thence northeasterly, easterly, northerly, easterly, and northeasterly along the centerline of said C.T.H. "N" to its intersection with the east line of said Township of Marion; thence southerly along the east line of Sections 13, 24, 25, and 36 of said Township to the southeast corner thereof; thence westerly along the south line of Sections 36, 35, 34, 33, 32 and 31 of said Township to the southwest corner thereof and the point of beginning.

## CHAPTER 2

### Town Meetings

- 2-2-1 Town Meeting Definitions
- 2-2-2 Powers of Town Meetings
- 2-2-3 Annual Town Meeting
- 2-2-4 Special Town Meetings
- 2-2-5 Presiding Officer at Town Meetings
- 2-2-6 Procedure at all Town Meetings
- 2-2-7 Clerk of Town Meetings

#### **SEC. 2-2-1 TOWN MEETING DEFINITIONS.**

In this Code of Ordinances:

- (a) **“Annual Town Meeting”** means the Town meeting held under Sec. 60.11, Wis. Stats.
- (b) **“Special Town Meeting”** means a Town meeting, other than the annual Town meeting, held under Sec. 60.12, Wis. Stats.
- (c) **“Town Meeting”** means the annual Town meeting or a special Town meeting.  
State Law Reference: Section 60.001, Wis. Stats.

#### **SEC. 2-2-2 POWERS OF TOWN MEETING.**

- (a) **Direct Powers.** Town Meeting may:
  - (1) Raise money. Raise money, including levying taxes, to pay for expenses of the Town, unless the authority has been delegated to the Town Board under Subsection (b)(1) below.
  - (2) Town offices and officers.
    - a. Fix the compensation of elective Town offices under Section 60.23, Wis. Stats., unless the authority has been delegated to the Town Board under Subsection (b)(1) below.
    - b. Combine the offices of Town Clerk and Town Treasurer under Sec. 60.305(1), Wis. Stats.
    - c. Combine the offices of Town Assessor and Town Clerk under Sec. 60.305(2), Wis. Stats.

- d. Establish or abolish the office of Town Constable and establish the number of constables. Abolition of the office is effective at the end of the term of the person serving in the office.
  - e. Designate the office of Town Clerk, Town Treasurer or the combined office of Clerk and Treasurer as part time under Sec. 60.305(1)(b), Wis. Stats.
- (3) Election of town officers.
- a. Adopt a plan under Sec. 5.60(6), Wis. Stats., to elect Town Board Supervisor to numbered seats.
  - b. Provide under Sec. 8.05(3)(a), Wis. Stats., for the nomination of candidates for elective Town offices at a nonpartisan primary election.
- (4) Public Waterways. Appropriate money for the improvement and maintenance of a public waterway under Sec. 81.05, Wis. Stats.
- (5) Cemeteries. Authorize the acquisition and conveyance of cemeteries under Sec. 157.50(1) and (3), Wis. Stats.
- (6) Administrator agreements. Approve agreements to employ an Administrator for more than three (3) years under Sec. 60.37(3)(d), Wis. Stats.
- (b) **Directives or Grants of Authority to Town Board.** Except as provided under Subsection (c), directives or grants of authority to the Town Board under this Subsection may be general and continuing or may be limited as to purpose, effect or duration. Resolutions adopted by a Town Meeting directing or authorizing the Town Board to exercise one of the optional powers of this Subsection shall include language that makes the intent of those attending the Town Meeting clear. A resolution adopted under this Subsection shall specify whether the directive or grant is general and continuing or whether it is limited as to purpose, effect or duration. A resolution that is continuing remains in effect until rescinded at a subsequent Town Meeting by a number of electors equal to or greater than the number of electors who voted for the original resolution. This Subsection does not limit any authority otherwise conferred on the Town Board by law. By resolution, the Town Meeting may:
- (1) Raise money. Authorize the Town Board to raise money, including levying taxes, to pay for expense of the Town.
  - (2) Membership of Town Board in populous towns. If the Town has a population of 2,500 or more, direct the Town Board to increase the membership of the Board under Sec. 60.21(2), Wis. Stats.
  - (3) Exercise of village powers. Authorize the Town Board to exercise powers of a Village Board under Sec. 60.22(3), Wis. Stats. A resolution adopted under this paragraph is general and continuing.
  - (4) General obligation bonds. Authorize the Town Board to issue general obligation bonds in the manner and for the purposes provided by law.

- (5) Purchase of land. Authorize the Town Board to purchase any land within the Town for present or anticipated Town purposes.
- (6) Town buildings. Authorize the Town Board to purchase, lease or construct buildings for the use of the Town, to combine for this purpose the Town's funds with those of a society or corporation doing business or located in the Town and to accept contributions of money, labor or space for this purpose.
- (7) Disposal of property. Authorize the Town Board to dispose of Town property, real or personal, other than property donated to and required to be held by the Town for a special purpose.
- (8) Watershed protection and soil and water conservation. Authorize the Town Board to engage in watershed protection, soil conservation or water conservation activities beneficial to the Town.
- (9) Appointed assessors. Authorize the Town Board to select Assessors by appointment under Sec. 60.307(2), Wis. Stats.
- (10) Compensation of elective Town offices. Authorize the Town Board to fix the compensation of elective Town offices under Sec. 60.32(1)(b), Wis. Stats.
- (c) **Authorization to Town Board to Appropriate Money.** The Town Meeting may authorize the Town Board to appropriate money in the next annual budget for:
  - (1) Conservation of natural resources. The conservation of natural resources by the Town or by a bona fide nonprofit organization under Sec. 60.23(6). Wis. Stats.
  - (2) Civic functions. Civic and other functions under Sec. 60.23(3), Wis. Stats.
  - (3) Insects, weeds and animal diseases. The control of insect pests, weeds or plant or animal diseases within the Town.
  - (4) Rural numbering systems. Posting signs and otherwise cooperating with the county in establishment of a rural numbering system under Sec. 59.07(65), Wis. Stats.
  - (5) Cemetery improvements. The improvement of a Town Cemetery under Sec. 157.50(5), Wis. Stats.

State Law Reference: Section 60.10, Wis. Stats.

## **SEC. 2-2-3 ANNUAL TOWN MEETING.**

- (a) **Requirement.** This Town of Marion shall hold an annual Town meeting as provided in this Section.
- (b) **When Held.**
  - (1) Except as provided in Subsection (b)(2) below, the annual Town meeting shall be held on the second (2<sup>nd</sup>) Tuesday of April.
  - (2) The annual Town meeting may set a date different than provided under Subsection (b)(a) above for the next annual Town meeting if the date is within ten (10) days after the second (2<sup>nd</sup>) Tuesday of April.

(c) **Where held.**

(1) The annual Town meeting may be held in the Town or in any village or city within or adjoining the Town of Marion.

(2) The annual Town meeting shall be held at the location of the last annual Town meeting unless the location is changed by the Town Board. If the town Board changes the location, it shall publish a Class 2 notice under Ch. 985, Wis. Stats., stating the location of the meeting, not more than twenty (20) nor less than fifteen (15) days before the date of the meeting.

(d) **Adjournment.** The annual Town meeting may be recessed to a time and date certain if the resumed meeting is held within thirty (30) days after the date of the meeting originally scheduled under Subsection(b). Business not acted on at the annual meeting, or within the thirty (30) days allowed for adjourning and reconvening the meeting, shall be left to the next annual meeting or taken up by a special Town meeting convened under Sec. 60.12, Wis. Stats.

(e) **Notice.** No public notice of the annual Town meeting is required if held as provided under Subsection (b)(1). If held as provided under Subsection (b)(1), notice of the time and date of the meeting shall be given under Sec. 60.12(3), Wis. Stats.

(f) **Jurisdiction.** The annual Town meeting may transact any business over which the Town meeting has jurisdiction.

(g) **Poll List.** The annual Town meeting may require the Clerk of the Town meeting to keep a poll list with the name and address of every elector voting at the meeting.  
State Law Reference: Section 60.11, Wis. Stats.

## **SEC. 2-2-4 SPECIAL TOWN MEETINGS.**

(a) **Who May Convene.** A special Town meeting may be convened if:

(1) Called by a Town meeting.

(2) A written request, signed by a number of electors equal to not less than ten percent (10%) of the votes cast in the Town for Governor at the last general election is filed with the Town Clerk.

(3) Called by the Town Board.

(b) **Time, Date and Purpose to be Stated.** If a special Town meeting is requested or called under Subsection (a), the time, date and purpose of the meeting shall be stated in the request or as part of the call.

(c) **Notice.** The Town Clerk shall, not more than twenty (20) nor less than fifteen (15) days before the date of a special Town meeting, publish a Class 2 notice of the meeting under Ch. 985, Wis. Stats. The notice shall state the purpose, date, time and location of the meeting. If notice is posted instead of published, the same time and content requirements apply.

(d) **Location.**

(1) A special Town meeting may be held in the Town or in any village or city within or adjoining the Town.

(2) A special Town meeting shall be held where the preceding annual town meeting was held, unless the location is changed by the Town Board.

(e) **Adjournment.** A special Town meeting may be recessed to a time and date certain if the resumed meeting is held within thirty (30) days after the date of the originally scheduled meeting.

(f) **Jurisdiction.** Any business which may be transacted at an annual Town meeting may be transacted at a special Town meeting.

State Law Reference: Section 60.12, Wis. Stats.

**SEC. 2-2-5 PRESIDING OFFICER AT TOWN MEETINGS.**

(a) **Who Presides.**

(1) If present, the Town Board Chairperson shall chair the Town meeting, as defined in Sec. 2-1-1. If the Town Board Chairperson is absent, another Town Board Supervisor shall chair the Town meeting. If no Town Board Supervisor is present, the Town meeting shall elect the chairperson of the meeting.

(2) If the annual Town meeting is held in a year when the office of Town Board Chairperson is filled by election, the person holding the office on the day prior to the date of the election to fill the office shall preside at the annual Town meeting and is entitled to receive the per diem which is ordinarily paid to the presiding officer. If such person is absent or refuses to serve as the presiding officer, the presiding officer shall be chosen under Subsection (a)(1) above.

(b) **Duties.** The Town meeting chairperson shall conduct the meeting's proceedings in accordance with accepted parliamentary procedure.

(c) **Enforcement Authority.** The Town meeting chairperson shall maintain order and decorum and may order any person to leave a Town meeting if the person has conducted himself or herself in a disorderly manner and persisted in such conduct after being directed by the chairperson to cease the conduct. If the person refuses the chairperson's order to withdraw, the Town meeting chairperson may order a constable or other law enforcement officer to take the person into custody until the meeting is adjourned.

State Law Reference: Section 60.13, Wis. Stats.

**SEC. 2-2-6 PROCEDURE AT ALL TOWN MEETINGS.**

(a) **Qualified Voters.** Any qualified elector of the Town, as defined under Ch. 6, Wis. Stats., may vote at a Town meeting.



**(b) Definition.** A qualified elector, as defined under Ch. 6, Wis. Stats., means an individual who is a U.S. citizen, eighteen (18) years of age or older, and who has been a resident of the Town for at least ten (10) days on the date a Town Meeting is held.

**(c) Method of Action; Necessary Votes.** All actions of a Town meeting shall be by vote. All questions shall be decided by a majority of the electors voting.

**(d) Order of Business.** At the beginning of the Town meeting, the Town meeting chairperson shall state the business to be transacted and the order in which the business will be considered. No proposal to levy a tax, except a tax for defraying necessary Town expenses, may be acted on out of the order stated by the Town meeting chairperson.

**(e) Reconsideration of Actions.**

(1) No reconsideration of any vote shall be had at any Town meeting unless it be taken by a majority vote within one (1) hour from the time such vote shall have been passed, or if taken later than one (1) hour, unless it be sustained by a number of votes equal to a majority of all the names entered on the poll list at such election up to the time the motion therefor shall be made. All other questions upon motions at a Town meeting shall be determined by a majority of the electors voting.

(2) No action of a Town meeting may be reconsidered at a subsequent Town meeting held prior to the next annual Town meeting unless a special Town meeting is convened under Sec. 60.12(1)(b) or (c), Wis. Stats., and the written request or the call for the meeting states that a purpose of the meeting is reconsideration of the action.

State Law Reference: Section 60.14, Wis. Stats.

## **SEC. 2-2-7 CLERK OF TOWN MEETINGS.**

The Town Clerk shall serve as clerk of the Town meeting. If the Town Clerk is absent, the Deputy Town Clerk, if the Town has one, shall serve as town meeting clerk. If the Deputy Clerk is absent, the Town meeting chairperson shall appoint a clerk of the meeting. The Clerk of the Town meeting shall keep a poll list if required by the annual Town meeting under Sec. 60.11(7), Wis. Stats. The Town meeting minutes shall be signed by the Clerk of the Town meeting and filed in the Office of the Town Clerk within five (5) days after the meeting.

State Law Reference: Section 60.15, Wis. Stats.

## **CHAPTER 3**

### Town Board

- 2-3-1 Town Board: Elections to
- 2-3-2 General Powers and Duties of the Town Board
- 2-3-3 Miscellaneous Powers of the Town Board Chairperson
- 2-3-4 Powers and Duties of the Town Board Chairperson
- 2-3-5 Internal Powers of the Board
- 2-3-6 Meetings of the Town Board
- 2-3-7 Special Meetings of the Board
- 2-3-8 Open Meetings
- 2-3-9 Quorum
- 2-3-10 Presiding Officer
- 2-3-11 Order of business
- 2-3-12 Introduction of Business, Resolutions and Ordinances; Disposition of Communications.
- 2-3-13 Standing Committees; Action on Committee Reports
- 2-3-14 Conduct of Deliberations
- 2-3-15 Procedure at Public Hearings
- 2-3-16 Reconsideration of Questions
- 2-3-17 Call for the Previous Question
- 2-3-18 Publication or Posting of Ordinances and Resolutions
- 2-3-19 Amendment of Rules
- 2-3-20 Suspension of Rules

#### **SEC. 2-3-1 TOWN BOARD; ELECTIONS TO.**

**(a) Membership.** The Town Board consists of two (2) Supervisors of the Town of Marion and the Chairperson.

**(b) Elections.**

(1) There shall be elected one (1) Supervisor from the Town at large who shall be designated as the “Chairperson” and whose term shall be for a period of two (2) years.

(2) Biennially in odd-numbered years, at the annual spring election, there shall be elected three (3) Supervisors, one (1) of whom shall be designated on the ballots as Chairperson.

State Law Reference: Sections 60.20, Wis. Stats.

## **SEC. 2-3-2 GENERAL POWERS AND DUTIES OF THE TOWN BOARD.**

**(a) Charge of Town Affairs.** The Town Board shall have charge of all affairs of the Town not committed by law to another body or officer or to Town Employee(s).

**(b) Charge of Actions.** The Town Board has charge of any action or legal proceeding to which the Town is a party.

**(c) Village Powers.** As authorized under Sec. 60.10(2)(c), Wis. Stats., and Sec. 2-1-2 of this Code, the Town Board shall exercise powers relating to villages and conferred on village boards under Ch. 61, Wis. Stats., except those powers which conflict with statutes relating to towns and town boards.

**(d) Jurisdiction of Constable.** The Town Board shall determine the jurisdiction and duties of the Town Constable, if the office is in existence.

**(e) Pursue Certain Claims of Town.** The Town Board shall demand payment of penalties and forfeitures recoverable by the Town and damages incurred by the Town due to breach of official bond, injury to property or other injury. If, following demand, payment is not made, the Board shall pursue appropriate legal action to recover the penalty, forfeiture or damages.

State Law Reference: Section 60.10(2)(c) and 60.22, Wis. Stats.

## **SEC. 2-3-3 MISCELLANEOUS POWERS OF THE TOWN BOARD.**

The Town Board may:

**(a) Joint Participation.** Cooperate with the state, counties and other units of government under Sec. 66.30, Wis. Stats., including cooperative arrangements involving the acquisition, development, remodeling, construction, equipping, operation and maintenance of land, buildings and facilities for regional projects, whether or not located in the town.

- (b) Utility Districts.** Establish utility districts under Sec. 66.072, Wis. Stats., and provide that any convenience or public improvement in the district be paid for under that Section. A utility district may be used when special services such as street lighting, sidewalks, sewers, water systems, etc., are to be installed in a particular area of the Town only.
- (c) Appropriations for Civic and Other Functions.** If authorized under Sec. 60.10(3)(b), Wis. Stats., appropriate reasonable amounts of money for gifts or donations to be used to:
- (1) Further civic functions and agricultural societies.
  - (2) Advertise the attractions, advantages and natural resources of the Town.
  - (3) Attract industry.
  - (4) Establish industrial complexes.
  - (5) Establish, maintain and repair ecological area.
  - (6) Provide for the organization, equipment and maintenance of a municipal band or for the employment of other bands to give concerts and municipal entertainment in the Town.
- (d) Town Industrial Development Agency.** In order to promote and develop the resources of the Town, appropriate money for and create a Town industrial development agency or appoint an executive officer and provide staff and facilities for a nonprofit organization organized to act under this Subsection. A Town industrial development agency created under this Subsection and Sec. 60.23(4), Wis. Stats., may:
- (1) Develop data regarding the industrial needs of, advantages of and sites in the Town.
  - (2) Engage in promotional activities to acquaint prospective purchasers with industrial products manufactured in the Town.
  - (3) Coordinate its activities with the Regional Planning Commission, the Wisconsin Department of Development and private credit development organizations.
  - (4) Engage in any other activity necessary for the continued improvement of the Town's industrial climate.
- (e) Cooperation in County Planning.** Cooperate with the county in rural planning under Secs. 27.015, 59.07(65) and 59.97, Wis. Stats.
- (f) Conservation of Natural Resources.** If authorized by the Town meeting under Sec. 60.10(3)(a), Wis. Stats., appropriate money for the conservation of natural resources or for payment to a bona fide nonprofit organization for the conservation of natural resources within the Town or beneficial to the Town. No payment may be made to a nonprofit organization unless the organization submits and the Town Board approves a detailed plan of the work to be done. The plan shall include the name of the owner of any property on which work is to be performed.
- (g) Obstructions in Non-navigable Waters.** Remove, at the expense of the Town, any obstruction located in the Town which prevents the natural flow of water in a non-

navigable stream. One or more Supervisors, or a designee of the Board, may enter upon any land if necessary to remove the obstruction.

- (h) Emergency Pest and Disease Control.** Appropriate money for the control of insects, weeds or plant or animal diseases if:

  - (1) An emergency arises within the Town due to insects, weeds or plant or animal diseases; and
  - (2) The Board determines that any delay resulting from calling a special Town meeting to authorize the Town Board to appropriate money for this purpose under Sec. 60.10(3)(c), Wis. Stats., would result in serious harm to the general welfare of the Town.
- (i) Bowling Alleys, Pool Tables and Amusement Devices.** Regulate, including the licensing of, bowling alleys, billiard and pool tables and other amusement devices maintained in commercial facilities. If a license is required, the Board shall establish the term of the license, not to exceed one (1) year, and the license fee. The Board may suspend or revoke, for cause, a license issued under this Subsection. Any person violating a regulation adopted under this Subsection shall forfeit to the Town an amount established by the Town Board.
- (j) Reimbursement of School Districts for Providing Transportation in Hazardous Areas.** Reimburse a school district for costs incurred by the district under Sec. 121.54(9), Wis. Stats., in transporting pupils who reside in the Town.
- (k) Exchange Tax Credit for County Land.** Authorize the Town Treasurer to exchange any credit the Town has with the County, arising from delinquent real estate taxes, for county owned lands.
- (l) Associations of Towns.** Appropriate money to purchase membership in any association of town boards for the protection of Town interests and improvement of Town government.
- (m) Vacation of Alleys.** Vacate any alley in the Town under Sec. 66.296, Wis. Stats. The Town Board may not vacate, under this Subsection, an alley adjacent to land fronting a state or county trunk highway.
- (n) Cemeteries.** Provide for cemeteries under Ch, 157, Wis. Stats.
- (o) Change Street Names.** Name, or change the name of, any street in the Town under Sec. 81.01(11), Wis. Stats.
- (p) Use of Firearms.** Regulate the careless use of firearms and impose forfeitures for violation of the regulations.
- (q) Fences in Subdivisions.** Require a subdivider to construct a fence under Sec. 90.02, Wis. Stats., on the boundary of a subdivision, as defined under Sec. 236.02(8), Wis. Stats., as a condition of plat approval by the Town. The fence shall be maintained under Sec. 90.05(2), Wis. Stats., and repaired under Secs. 90.10 and 90.11.

**(r) Disposition of Dead Animals.** Notwithstanding Sections 59.07(84) and 95.50(3), Wis. Stats., dispose of any dead animal within the Town or contract for the removal and disposition with any private disposal facility. The Town may enter into a contract with any other government unit under Sec. 66.30 to provide for the removal and disposition. The Town may recover its costs under this Subsection by levying a special assessment under Sec. 66.345, Wis. Stats.

State Law Reference: Section 60.23, Wis. Stats.

## **SEC. 2-3-4 POWERS AND DUTIES OF TOWN BOARD CHAIRPERSON.**

**(a) General Powers and Duties.** The Town Board Chairperson shall:

- (1) Preside at Board meetings. Preside over meetings of the Town Board.
- (2) Preside at Town meetings. Preside over Town meetings as provided under Sec. 60.13, Wis. Stats., and Sec. 2-2-5 of this Code.
- (3) Sign documents.
  - a. Sign all ordinances, resolutions, bylaws, orders, regulations, commissions, license and permits adopted or authorized by the Town Board unless the Town Board, by ordinance, authorizes another officer to sign specific types of documents in lieu of the Chairperson. The Board, by ordinance, may authorize us of a facsimile signature.
  - b. Sign all drafts, order checks and transfer orders as provided under Sec. 66.042, Wis. Stats.
- (4) Assure administration of Statutes. Supervise the administration of the Wisconsin Statutes relating to the Town and Town operations to see that they are faithfully executed.
- (5) Act on behalf of Board. Act, on behalf of Town Board to:
  - a. See that Town orders and Ordinances are obeyed.
  - b. See that peace and order are maintained in the Town.
  - c. Obtain necessary assistance, if available, in case of emergency, except as provided under Ch. 166. Wis. Stats.
- (6) Act on authorization of Board. If authorized by the Town Board, act on behalf of the Board to:
  - a. Direct, as appropriate, the solicitation of bids and quotations for the Town's purchase of equipment, materials and services and submit the bids and quotations to the Town Board for approval. Although the Town Board may direct the Chairperson to solicit bids and quotations, the final decision as to which bid to accept or the decision to enter into a contract shall be made by the entire board.

- b. Represent, or designate another officer to represent, the Town at meetings of, and hearings before, governmental bodies on matters affecting the Town.

**(b) Administer Oaths.** The Chairperson may administer oaths and affidavits on all matters pertaining to the affairs of the Town.

**(c) Other Responsibilities.** In addition to the powers and duties under this Section, the Chairperson has the following responsibilities:

- (1) Nominate election officials when the Town Board disapproves the nominee of a party committee under Sec. 7.30(4)(b)2, Wis. Stats.
- (2) Serve as caucus official under Sec. 8.05(1)(c), Wis. Stats.
- (3) Sue on official bonds under Sec. 19.015, Wis. Stats.
- (4) Execute and sign a certificate of indebtedness in connection with obtaining a state trust fund loan under Sec. 24.67, Wis. Stats.
- (5) Service as Town fire warden under Secs. 26.13 and 26.14, Wis. Stats.
- (6) Appoint members of library boards under Secs. 43.54(1)(a) and 43.60(3), Wis. Stats.
- (7) Exercise the powers and duties specified for a mayor under Sec. 62.13, Wis. Stats., if the Town creates a joint board of police and fire commissioners or joint police or fire department with a village under Sec. 61.65(3g)(d)2, Wis. Stats., or a board of police and fire commissioners under Sec. 60.57, Wis. Stats.
- (8) Provide an annual estimate of funds necessary for any utility district established under Sec. 66.072(2), Wis. Stats.
- (9) Publish annually a notice regarding noxious weeds and appoint one (1) or more commissioners of noxious weeds under Secs. 66.96 to 66.99, Wis. Stats.
- (10) Sign general obligation bonds issued by the Town under Sec. 67.08(1), Wis. Stats.
- (11) If authorized by the Town Board, represent the interests of the Town in connection with appearances before the State Tax Appeals Commission under Sec. 70.64(5), Wis. Stats.
- (12) Approve the bond of the Town Treasurer delivered to the County Treasurer under Sec. 70.67(1), Wis. Stats.
- (13) Perform duties in connection with selection of jurors in actions relating to the taking of property to provide access to a cemetery, fairground or land used for industrial expositions under Sec. 80.48(3) and (4), Wis. Stats.
- (14) Sign orders for payment of work performed and materials furnished on town highways under Sec. 81.04, Wis. Stats.
- (15) See that all tunnels in the Town are constructed under Sec. 81.35, Wis. Stats., and that they are kept in good repair.
- (16) If applicable, serve as a member of the County Highway Committee under Sec. 83.015(1)(d), Wis. Stats.

- (17) If applicable, close county truck highways when rendered dangerous for travel and notify the Highway Commissioner under Sec. 80.09, Wis. Stats.
  - (18) If applicable, appoint members to Airport commissions under Sec. 114.14(2), Wis. Stats.
  - (19) If applicable, vote or designate another Supervisor to vote on whether to abolish a city school district and create a common school district or a unified school district containing the territory of a city school when an order for school district reorganization has been issued under Sec. 120.50, Wis. Stats.
  - (20) Perform the Town Chairperson's duties related to jewelry auction sales under Sec. 130.07, Wis. Stats.
  - (21) Under Sec. 167.10, Wis. Stats., enforce regulations of fireworks.
  - (22) Perform the Town Chairperson's duties related to stray animals and lost goods under Ch. 170, Wis. Stats.
  - (23) Perform the Town chairperson's duties related to distrained animals under Ch. 172, Wis. Stats.
  - (24) Perform the Town Chairperson's duties related to animals that have caused damage in the Town under Ch. 173, Wis. Stats.
  - (25) If applicable, perform the Town Chairperson's duties related to municipal power and water districts under Ch. 198, Wis. Stats.
  - (26) If applicable, cause actions to be commenced for recover of forfeitures for violations of Town Ordinances that can be recovered in municipal court under Sec. 778.11, Wis. Stats.
  - (27) If applicable, notify the district attorney of forfeitures which may not be recovered in municipal court under Sec. 778.12, Wis. Stats.
  - (28) Approve bonds furnished by contractors for public works under Sec. 779.14(1), Wis. Stats.
- State Law Reference: Section 60.24, Wis. Stats.

## **SEC. 2-3-5 INTERNAL POWERS OF THE BOARD.**

The Town Board has power to preserve order at its meetings, compel attendance of Supervisor and punish nonattendance. The Town Board shall be judge of the qualification of its members.

## **Sec. 2-3-6 MEETINGS OF THE TOWN BOARD.**

Regular meetings of the Town Board shall be held on the first Tuesday of every month at 7:30 pm local time. Any regular meeting falling on a legal holiday shall be held the next following Thursday at the same time and place. All meetings of the Board shall be held at the Town Hall of the Town of Marion unless specified otherwise in the minutes of the preceding meeting or by



written notice posted at the regular meeting place at least three (3) hours prior to any meeting. All three (3) Supervisors must consent to any change in the place of any meeting of the Board.

### **SEC. 2-3-7 SPECIAL MEETINGS OF THE BOARD.**

Special meetings may be called by the Chairperson or by any two (2) Supervisors by notifying the Clerk no less than twenty-four (24) hours prior to the specified time of the meeting. The Clerk shall immediately notify all the Supervisors of the time and place of the meeting and shall cause public notice to be posted in at least three (3) public places likely to give notice to person affected no less than six (6) hours prior to the time specified for the meeting.

### **SEC. 2-3-8 OPEN MEETINGS.**

All Town Board and Town Committee meetings shall be open to the public and be in compliance with Wisconsin's Open Meeting Law.

State Law Reference: Ch. 19, Subch. IV, Wis. Stats.

### **SEC. 2-3-9 QUORUM.**

A majority of the Supervisors shall constitute a quorum, but a lesser number may adjourn if a majority is not present.

### **SEC. 2-3-10 PRESIDING OFFICER.**

The Chairperson shall preside at all meetings of the Town Board when present. In his absence, the Town Board may select another Supervisor to preside and in such case, the Clerk shall call the meeting to order and preside until the Town Board selects a Supervisor to preside.

### **SEC. 2-3-11 ORDER OF BUSINESS.**

**(a) Order of Business.** At all meetings, the following order may be observed in conducting the business of the Town Board:

- (1) Call to Order by presiding officer;
- (2) Roll call;
- (3) Reading and correcting the minutes of the last preceding meeting or meetings;
- (4) Presentation of bills, statements and vouchers;
- (5) Reports from officials of the Town;
- (6) Reports from committees;
- (7) Unfinished business remaining from preceding sessions in the order in which it was introduced;
- (8) New Business; ordinance and resolutions may be introduced and considered;

- (9) Business may be presented by the Chairperson and Supervisors;
- (10) Miscellaneous;
- (11) Adjournment.

**(b) Agenda Preparation.**

- (1) The Town Clerk shall prepare an agenda incorporating the matters comprising the order of business; and
- (2) There be included on said agenda a time for hearing citizens wishing to address the Board; and
- (3) No matter requiring research, investigation or decision shall be placed on the agenda of the Town Board a request to do so is made to the Town Clerk at least five (5) days prior to the meeting, nor shall the agenda be amended to include said matter, either prior to ordering the meeting, except when the members of the Board unanimously agree to the agenda addition.

**(c) Order to be followed; Citizen Comments.** No business shall be taken up out of order unless by unanimous consent of all Supervisors and in the absence of any debate whatsoever. The Chairperson or presiding officer may impose a time limit on the length of time citizens may address the Board.

**(d) Roll Call; Procedure When Quorum Not in Attendance.** As soon as the Board shall be called to order, the Clerk shall proceed to call the names of the members of alphabetical order, noting who are present and who are absent and record the same in the proceedings of the Board. If it shall appear that there is not a quorum present, the fact shall be entered on the journal and the Board may adjourn.

**SEC. 2-3-12 INTRODUCTION OF BUSINESS, RESOLUTIONS AND ORDINANCES; DISPOSITION OF COMMUNICATIONS.**

**(a) Ordinances, Resolutions, Etc., to be in Writing.** All ordinances, resolutions or other communications submitted to the Board shall be in writing and shall include at the outset a brief statement of the subject matter, a title and the name of the Supervisor introducing same. All written material introduced shall be read and then discussed and acted upon as the Board deems appropriated. All Ordinances shall be read at least once before its final passage.

**(b) Subject and numbering of Ordinances.** Each Ordinance shall be related to no more than one (1) subject. Amendment or repeal of Ordinances shall only be accomplished if the amending or repealing Ordinance contains the number and title of the Ordinances to be amended or repealed, and title of amending and repealing Ordinances shall reflect their purpose to amend or repeal.

**(c) Notice.**

- (1) The Town Board may take action on an Ordinance only if it appears on the written agenda for meeting at which action is requested in order to provide proper legal notice.
- (2) Ordinances will be placed on the agenda for Board action only if they are submitted to the Town Clerk in written form a minimum of five (5) days prior to the meeting at which action is requested.

**(d) Disposition of Petitions, Communications, Etc.** Every petition or other writing of any kind, addressed to the Board, Clerk or other Town officer for reference to the Town Board, shall be delivered by the Clerk or such other Town officer to the Chairperson or to the presiding officer of the Board as soon as convenient after receipt of same and, in any event, prior to or at the opening of the next meeting of the Board following the receipt of same.

### **SEC. 2-3-13 STANDING COMMITTEES; ACTION ON COMMITTEE REPORTS.**

**(a) Standing Committees.** At the first regular meeting of the Town Board in each year following the spring election, the chairperson may appoint Supervisors to special or standing subcommittees, subject to Board confirmation. The Chairperson shall state the number of members and designate what duties are assigned to the committee.

**(b) Committee Appointments.**

- (1) Each Supervisor shall serve as appointed unless excused by a majority of the members of the Board.
- (2) The Chairperson may declare the entire Town Board a committee of the whole for informal discussion at any meeting or for any other purpose and shall ex officio be chairman of the same.
- (3) The Chairperson may, from time to time, appoint such special committee or committees as may deem advisable or as provided for by motion or resolution stating the number of members and object thereof to perform such duties as may be assigned to them.
- (4) Supervisors appointed to serve on committees, except Supervisors appointed to serve on boards or commissions for specific terms thereon pursuant to Ordinance or statute, shall be limited to two (2) consecutive annual full terms of committee membership, such Supervisor to be ineligible thereafter for reappointment to the same standing committee for a period of one (1) year. It is the intention of this provision that the fulfillment of unexpired term(s) (i.e., less than full terms) by appointment shall not be counted in determining the maximum two (2) consecutive terms.

**(c) Reference and Reports.**

- (1) The Town Board shall refer new business coming before the Town Board to the appropriate committee of managing Supervisors, unless otherwise referred or disposed of by motion of the Board.
- (2) Resolution, ordinance and formal committee or recommendations involving Town policy will be placed on the agenda for a Board action only if they are submitted to the Town Clerk in written form a minimum of seven (7) days prior to the meeting at which action is requested.

**(d) Cooperation of Town Officers.** All Town officers shall, upon request of the managing Supervisors, confer with the committee and supply to it such information as may be requested in connection with any matter pending before the committee and/or managing Supervisors.

### **SEC. 2-3-14 CONDUCT OF DELIBERATIONS.**

- (a) A roll call shall not be necessary on any questions or motions except as follows:
  - (1) When the ayes and noes are requested by any member.
  - (2) On confirmation and on the adoption of any measure assessing or levying taxes, appropriations or disbursing money, or creating any liability or charge against the Town or any fund thereof.
  - (3) When requested by the State Statutes of Wisconsin.
- (b) All aye and nay votes shall be recorded in the official minutes.
- (c) Except as provided below, the Town Board shall, in all other respects, determine the rules of its procedure, which shall be governed by Robert's Rules of Order, which is hereby incorporated by reference, unless otherwise provided by Ordinance or Statute, except when otherwise limited or modified by this Code or Ordinances:
  - (1) No Supervisor shall address the Board until he has been recognized by the presiding officer. He shall thereupon address himself to the chairman and confine his remarks to the question under discussion and avoid all personalities.
  - (2) When two (2) or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.
  - (3) No person other than a member shall address the Board except under order of business, except that citizens may address the Board with the permission of the presiding officer as to matters which are being considered by the Board at the time.
  - (4) No motion shall be discussed or acted upon unless and until it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.

### **SEC. 2-3-15 PROCEDURE AT PUBLIC HEARINGS.**

- (a) The Chairperson shall then call on those persons who wish to speak for the proposition. Each person wishing to speak for the proposition shall give his or her name and address.
- (b) Each person speaking on behalf of the proposition shall be limited in time of five (5) minutes.
- (c) The Chairperson shall then call on those persons who wish to oppose the proposition.
- (d) Each such person wish to speak in opposition to the proposition shall give his or her name and address and shall also be limited to five (5) minutes.
- (e) Any person wishing to speak in rebuttal to any statements made nay, with the permission of the Chairperson, do so, provided, whoever, such rebuttal statement shall be limited to three (3) minutes by any one (1) individual.
- (f) When the Chairperson in his discretion is satisfied that the proposition has been heard, he shall announce the fact that the hearing is concluded.

### **SEC. 2-3-16 RECONSIDERATION OF QUESTIONS.**

It shall be in order for any member if, in the majority, to move for the reconsideration of any vote in question at the same meeting or at the next succeeding regular adjourned meeting. A motion to reconsider being put and lost shall not be renewed.

### **SEC. 2-3-17 CALL FOR THE PREVIOUS QUESTION.**

Any member desirous of terminating the debate may call the previous question when the question announced by the Chairperson shall be “shall the main question be put?” If a majority of the members present vote in the affirmative, the main question shall be put to a vote without further debate, and its effect shall be to put an end to all debate and bring the Board to a direct vote, first upon the pending amendment and then upon the main question.

### **SEC. 2-3-18 PUBLICATION OR POSTING OF ORDINANCES AND RESOLUTIONS.**

- (a) General Requirement.** The Town Clerk shall publish as a Class 1 notice under Ch. 985, Wis. Stats. or post in at least three (3) places in the Town likely to give notice to the public, the following, within thirty (30) days after passage or adoption:
  - (1) Resolutions, motions and other actions adopted by the Town meeting, or in the exercise of powers, under Sec. 60.10, Wis. Stats.
  - (2) Ordinances adopted by the Town Board.
  - (3) Resolutions of general application adopted by the Town Board and having the effect of law.
- (b) Requirement for Forfeitures.** If an Ordinance imposes a forfeiture, posting may not be used in lieu of publication under Subsection (a).

**(c) Effective Upon Publication.** An Ordinance, resolution, motion or other action required to be published or posted under this Section shall take effect the day after its publication or posting, or at a later date if expressly provided in the Ordinance, resolution, motion or action.

**(d) Affidavit of Posting.** If an Ordinance, resolution, motion or other action is posted under this Section, the Town Clerk shall sign an affidavit attesting that the item was posted as required by this Section and stating the date and place of posting. The affidavit shall be filed with the other records under the jurisdiction of the Clerk.

State Law Reference: Section 60.80, Wis. Stats.

### **SEC. 2-3-19 AMENDMENT OF RULES.**

The rules of this Chapter shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of two-third (2/3) of all the members of the Board.

### **SEC. 2-3-20 SUSPENSION OF RULES.**

Any of the provisions of Sections 2-3-14 through 2-3-17, inclusive of this Code may be suspended temporarily by a majority of the Board members present at any meeting.

## CHAPTER 4

### Town Officers and Employees

- 2-4-1 Election of Town Officers; General Provisions
- 2-4-2 Temporary Vacancies
- 2-4-3 Official Oath and Bond
- 2-4-4 Compensation of Elective Town Offices
- 2-4-5 Reimbursement of Expenses
- 2-4-6 Compensation When Acting in More than One Official Capacity
- 2-4-7 Town Clerk
- 2-4-8 Town Treasurer
- 2-4-9 Town Constable
- 2-4-10 Assessor
- 2-4-11 Weed Commissioner
- 2-4-12 Town Attorney
- 2-4-13 Town Employees
- 2-4-14 Custody of Official Property

#### **SEC. 2-4-1 ELECTION OF TOWN OFFICERS; GENERAL PROVISIONS.**

**(a) Elected Town Officers.** At the annual spring election in odd-numbered years, the Town shall elect a Chairperson and two (2) Supervisors. The following officers of the Town of Marion shall be chosen at the annual Town election in odd-numbered years for terms of two (2) years commencing on the first Tuesday of April in the year of their election:

- (a) A Town Clerk
- (b) A Town Treasurer
- (c) A Town Constable.

**(b) Restrictions.**

- (1) Only an elector of the Town may hold a Town office, other than an Assessor appointed under Sec. 60.307, Wis. Stats., if the Town elects to change the office of Assessor to an appointed position.

- (2) No person may hold the offices of Town Treasurer and Town Assessor at the same time. No person may assume the office of Town Assessor unless certified by the Department of Revenue, under Sec. 73.09, as qualified to perform the functions of the office of Town Assessor. If the Town reverts to a system of electing instead appointing the Assessor and a person is elected to the office and is not certified by June 1 of the year elected, the office is vacant and the Town Board shall fill the vacancy from a list of persons certified by the Department of Revenue.
- (c) **Notice of Election.** Within five (5) days after completion of the canvass under Sec. 7.53, Wis. Stats., the Town Clerk shall transmit a notice of election to each person elected to a Town office.
- (d) **Term of Office.**
- (1) Every elected Town officer shall hold the office for two (2) years.
- (2) The regular term of elected Town officers, other than the Town Assessor, if elected, commenced on the second (2<sup>nd</sup>) Tuesday of April in the year of their election.
- State Law Reference: Section 60.30, Wis. Stats.

#### **SEC. 2-4-2 TEMPORARY VACANCIES.**

- (a) If any elected Town officer, other than a Supervisor, is absent or temporarily incapacitated for any cause, the Town Board may appoint, if there is no deputy officer for the office, a suitable person to discharge the duties of the office until the officer returns or the disability is removed. Appointees shall file the official oath and bond required under Sec. 60.31, Wis. Stats.
- (b) Vacancies on the Town Board shall be filled by appointment by the remaining Supervisors and the Town Clerk, except when the vacancy is caused by removal by the Circuit Judge as provided by law, which latter vacancy shall be filled by appointment by the said judge. Persons appointed under this Subsection to fill vacancies shall hold office for the residue of the unexpired term.
- (c) If any elected Town officer, other than a Supervisor, refuses to perform any official duty, the Town Board may appoint a suitable person to perform those duties which the officer refuses to perform. An appointee shall file the official oath and bond required of the office under Sec. 60.31, Wis. Stats. This paragraph does not preclude a finding that refusal to perform official duties constitutes cause under Sec. 17.13(3), Wis. Stats.
- State Law Reference: Section 60.30(5), Wis. Stats.

#### **SEC. 2-4-3 OFFICIAL OATH AND BOND.**



- (a) Official Oath.** Except as provided in Subsection (c), every elected or appointed Town officer shall take and file the oath under Sec. 19.01, Wis. Stats., within five (5) days after notification of election and appointment.
- (b) Official Bond.** The Town Clerk, Treasurer and elected Assessor, if applicable, shall execute and file an official Bond provided by the Town. No natural person may be a surety on a bond under this Subsection. The bond may be furnished by a surety company under Sec. 632.17(2), Wis. Stats. The amount of the bond shall be fixed by the Town Board. If the amount of the bond is not fixed by the Board, the amount shall be the same as that required of the last incumbent of the office. If the Town Board at any time determines that the bond is insufficient, it may require an additional bond to be filed within then (10) days in an amount fixed by the Board. If the Town Board establishes Deputy Clerk or Treasurer position, such persons shall be bonded.
- (c) Exceptions.** If the Town reverts to a system of electing an Assessor and/or creates a Municipal Court:
- (1) An elected Assessor shall take and file the official oath and bond at any time between May 27 to May 31.
  - (2) The Municipal Judges shall take and file the official oath and bond under Sec. 755.03, Wis. Stats.
- (d) Failure to File Oath or Bond.** If any person elected or appointed to a Town office fails to file a required official oath or bond within the time prescribed by law, the failure to file constitutes refusal to serve in office.
- State Law Reference: Section 60.31, Wis. Stats.

## **SEC. 2-4-4 COMPENSTATION OF ELECTIVE OFFICES.**

- (a) Established by Town Meeting or Board.**
- (1) Except as provided under Subsection (2) below, the Town meeting shall establish the compensation of elective town offices.
  - (2) If authorized by the Town meeting under Sec. 60.10(2)(k), Wis. Stats., the Town board shall establish the compensation of elective Town offices, other than the office of Supervisor or Chairperson.
- (b) Nature of Compensation. Compensation under this Section may be:**
- (1) An annual salary.
  - (2) A per diem compensation for each day or part of a day necessarily devoted to the service of the Town and the discharge of duties.
  - (3) A combination of the above.
- (c) Changes During term.** Subject to Subsection (d), the Town meeting or, if authorized to establish compensation, the Town Board may make a change in the compensation of an elective Town office to take effect during the term of office.

**(d) When Established.** Compensation under this Section shall be established prior to the latest date and time for filing nomination papers for the office. After that date and time, no change may be made in the compensation of the office that applies to the current term of office.

State Law Reference: Section 60.32, Wis. Stats.

## **SEC. 2-4-5 REIMBURSEMENT OF EXPENSES.**

**(a) Generally.** The Town Board may provide for reimbursement of expenses necessarily incurred by any office or employee of the Town in the performance of official Town duties. The Board may determine who is eligible for expense reimbursement, which expenses are reimbursable and the amount of reimbursement. Expenses reimbursable under this Section include, but are not limited to:

- (1) Traveling expenses, including mileage, lodging and meal expenses.
- (2) Costs associated with programs of instruction related to the officer's or employee's office or employment.

**(b) Manuals.** The Town Board may purchase handbooks and manuals that will materially assist Town officials and employees in the performance of official duties.

State Law Reference: Section 60.321, Wis. Stats.

Cross Reference: Title 2, Chapter 7.

## **SEC. 2-4-6 COMPENSATION WHEN ACTING IN MORE THAN ONE OFFICIAL CAPACITY.**

Except for offices combined under Sec. 60.305, Wis. Stats., the Town may not compensate a Town officer for acting in more than one (1) official capacity or office of the Town at the same time.

State Law Reference: Sections 60.323 and 946.13, Wis. Stats.

## **SEC. 2-4-7 TOWN CLERK**

The Town Clerk shall:

**(a) Clerk of Town Meeting.** Serve as Clerk of the Town meeting under Sec. 60.15, Wis. Stats.

**(b) Clerk of Town Board.**

- (1) Serve as Clerk of the Town Board, attend meetings of the Board and keep a full record of its proceedings.
- (2) File all accounts approved by the Town Board or allowed at Town meetings and enter a statement of the accounts in the Town's record books.

(3) File with the Town Board claims approved by the Clerk, as required under Sec. 60.44(2)(c), Wis. Stats.

**(c) Finance Book.** Maintain a finance book, which shall contain a complete record of the finances of the Town, showing the receipts, with the date, amount and source of each receipt; the disbursements, with the date, amount and object of each disbursement; and any other information relating to Town finances prescribed by the Town Board. The financial records the Town Clerk is expected to maintain are in addition to, not in lieu of, those the Town Treasurer is expected to maintain.

**(d) Elections and Appointments.**

(1) Perform the duties required by Chapters 5 to 12, Wis. Stats., relating to elections.

(2) Transmit to the County Clerk, within ten (10) days after election or appointment and qualification of any town Supervisor, Treasurer, Assessor or Clerk, a written notice stating the name and post office address of the elected or appointed officer. The Clerk shall promptly notify the County Clerk of any subsequent changes in such offices.

(3) Transmit to the Clerk of Circuit Court, immediately after the election or appointment of any Constable or Municipal Judge in the Town, a written notice stating the name of the Constable or municipal Judge and the term for which elected or appointed. If the Judge or Constable was elected or appointed to fill a vacancy in the office, the Clerk shall include in the notice the name of the incumbent who vacated the office.

**(e) Sale of Real Property.** Execute the conveyance of real property of the Town. However, prior to the sale of any property by the Town Board, the electors attending a Town meeting must give the Town Board authorization to do so.

**(f) Notices.**

(1) Publish or post ordinances and resolutions as required under Sec. 60.80, Wis. Stats.

(2) Give notice of annual and special Town meetings as required under Section 60.11(5) and 60.12(3), Wis. Stats.

**(g) Records.**

(1) Comply with Subch. II of Chapter 19, Wis. Stats., concerning any record of which the Clerk is legal custodian.

(2) Demand and obtain the official books and papers of any Municipal Judge if the office becomes vacant and the Judge's successor is not elected or appointed and qualified, or if any Municipal Judge dies. The Town Clerk shall dispose of the books and papers as required by law.

**(h) Licenses.** Issue any license or permit granted by the Town Board when presented with a receipt from the Town Treasurer indicating that any required fee has been paid.

**(i) Schools.**

- (1) Perform the Clerk's duties under Chapters 115 to 121, Wis. Stats., relating to public instruction.
  - (2) Within en (10) days after the Clerk's election or appointment, report his or her name and post office address to the administrator of each cooperative educational service agency which contains any portion of the Town. The Clerk shall report to the administrator the name and post office address of each school district clerk within ten (10) days after the name and address is filed in the Clerk's office.
  - (3) Make and keep in the Clerk's office a map of the Town, showing the exact boundaries of school districts within the Town.
  - (4) Apportion, as provided by law, tax revenues collected by the Town for schools.
- (j) Highways and Bridges.** Perform the duties specified in Chapters 80 to 92, Wis. Stats., relating to highways, bridges and drains.
- (k) Notice of Property Tax Revenue.** Notify the Clerk of the county in which the Town is located, by March 15, of the proportion of property tax revenue and the credits under Sec. 79.10, Wis. Stats., that is to be disbursed by the County Clerk to each taxing jurisdiction located in the Town.
- (l) In General.** Perform all other duties require by law, ordinance or lawful direction of the Town meeting or Town Board.
- State Law Reference: Section 60.33, Wis. Stats.

## SEC. 2-4-8 TOWN TREASURER

The Town Treasurer shall:

- (a) Receive and Disburse Town Money.**
- (1) Receive and take charge of all money belonging to the Town, or which is required by law to be paid into the Town treasury, and disburse the money under Sec. 66.042, Wis. Stats.
  - (2) Keep an itemized account of all moneys received and disbursed, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid. The Treasurer shall issue numbered receipts for all funds received. At the request of the Town Board, the Treasurer shall present the account books, and any supporting documents requested, to the Board.
- (b) Deposit of Town Money.**
- (1) Deposit as soon as practicable funds of the Town in the name of the Town in the public depository designated by the Town Board. Failure to comply with this paragraph is grounds for removal from office.

(2) When money is deposited under Subsection (b)(1), the Treasurer and the Treasurer's sureties are not liable for any loss as defined in Sec. 34.01(6), Wis. Stats. The interest arising from the money deposited shall be paid into the Town treasury.

**(c) Records.** Comply with Subch. II of Ch. 19, Wis. Stats., concerning records of which the Treasurer is legal custodian.

**(d) Taxes.** Perform all of the duties relating to taxation required of the Town Treasurer under Chapters 70 to 79, Wis. Stats.

**(e) Preliminary Settlement of School Taxed.**

(1) To make partial apportionment of levies by school districts and vocational, technical and adult education districts out of any funds available in the Town treasurer prior to the tax apportionment provided by Sec. 74.03(5), Wis. Stats., within five (5) days after the filing of a written request by the district board. The Town Board may not deny such a request. The district board may not receive more than one (1) payment under this Subsection during the month.

(2) On or before January 15 and February 15 and any other date specified by the district, and to the appropriate vocational, technical and adult education district treasurer, if the district has not received a payment under Subsection (e)(1) during that month. That payment shall be the proportion of the school district's or vocational, technical and adult education district's levy that the general property taxes collected in the Town, except collections for state trust fund loans, state tax and state special charges, up to the last day of the preceding month bears to the total general property tax levy in the Town for all purposes except levies for state trust fund loans, state tax and state special charges. The Town Treasurer may make the payments required under this Subsection without authorization by the Town Board.

(3) On or before January 15 and any other date specified by the Town Board, pay under Sec. 74.031, Wis. Stats., to the appropriate school district treasurer and vocational, technical and adult education district treasurer the proportion of the district's levy that the general property taxes collected in the Town, except collections for state trust fund loans, state tax and state special charges, up to the last date of the preceding month bears to the total general property tax levy in the Town for all purposes except levies for stat trust fund loans, state tax and state special charges.

State Law Reference: Section 60.34, Wis. Stats.

## **SEC. 2-4-9 TOWN CONSTABLE.**

Pursuant with Section 60.22(4) and 60.35, Wis. Stats., the jurisdiction and the duties of the Town Constable shall be the enforcement of the Ordinances of the Town of Marion, except anything that pertains to moving traffic violations.  
State Law Reference: Section 60.34, Wis. Stats.

#### **SEC. 2-4-9 ASSESSOR.**

**(a) Qualification.** The Assessor, or assessment firm, shall be certified by the Department of Revenue under Section 73.03(2)(b), Wis. Stats., as qualified to perform the functions of an Assessor. Pursuant to Sec. 60.307(2), Wis. Stats., the Assessor shall be appointed by majority vote of the Town Board for a term of office as determined by employment contract.

**(b) Duties.** The Assessor shall begin under Section 70.10, Wis. Stats., to make an assessment of all of the property in the Town liable to taxation, as prescribed by law. The Assessor shall return the assessment roll to the Town Clerk at the same time and in the same manner in which Town Assessors are required to do as required by Chapter 70, Wis. Stats.

State Law Reference: Section 60.307(2) and Ch. 70, Wis. Stats.

Annotation: Petzek vs. Graves, 33 Wis. 2d 175 (1967).

#### **SEC. 2-4-11 WEED COMMISSIONER.**

The Weed Commissioner shall be appointed by the Chairperson, subject to Town Board confirmation. The term of office of the Weed Commissioner shall commence of the first day of May following his or her appointment. The Weed Commissioner shall take the official oath, which oath shall be filed in the Office of the Town Clerk, and shall hold office for one (1) year. The Weed Commissioner shall hold office pursuant to and fulfill the duties set out in state law.

State Law Reference: Section 66.97 and 66.98, Wis. Stats.

#### **SEC. 2-4-12 TOWN ATTORNEY.**

**(a) Election.** The Office of Town Attorney is an appointed position. The Town Attorney shall be appointed by the Town Board and shall serve at the pleasure of the Board.

**(b)** The Town Attorney shall have the following duties:

- (1) The Attorney shall conduct all of the law business in which the Town is interested.
- (2) He shall, when requested by Town officers, give written legal opinions, which shall be filed with the Town.
- (3) He shall draft ordinances, bonds and other instruments as may be required by Town officers.
- (4) He may appoint an assistant, who shall have power to perform his duties and for whose acts he shall be responsible to the Town. Such assistant shall receive no compensation from the Town, unless previously provided by Ordinance.
- (5) The Town Board may employ and compensate special counsel to assist in or take charge of any matter in which the Town is interested.
- (6) The Town Attorney shall perform such other duties as provided by State law and as designated by the Town Board.

State Law Reference: Section 60.37, Wis. Stats.

### **SEC. 2-4-13 TOWN EMPLOYEES.**

The Town Board may employ on a temporary or permanent basis persons necessary to carry out the functions of Town government. The Board may establish the qualifications and terms of employment, which may include the residency of the employee. The Board may delegate the authority to hire Town employees to any Town official or employee.

State Law Reference: Section 60.37, Wis. Stats.

### **SEC. 2-4-14 CUSTODY OF OFFICIAL PROPERTY.**

Town officers must observe the standards of care imposed by Section 19.21, Wis. Stats., with respect to the care and custody of official property.

State Law Reference: Section 19.21, Wis. Stats.

## CHAPTER 5

### Commissions and Boards

- 2-5-1 Board of Review
- 2-5-2 General Provisions Regarding Meetings and Public Notice

#### SEC. 2-5-1 BOARD OF REVIEW.

- (a) **Composition.** The Board of Review shall consist of the chairperson, Town Board Supervisors and Town Clerk.
- (b) **Duties.** The duties and functions of the Board of Review shall be as prescribed in Sections 70.46 and 70.47, Wis. Stats.
- (c) **Meetings.** The Board of Review shall meet annually on the second Monday of May at the Town Hall of the Town of Marion, and notice of such meeting shall be published pursuant to the State Statutes. The Board, through its Clerk, shall establish its meeting hours pursuant to Sec. 70.47(3)(b), Wis. Stats. The Board may adjourn from day to day or from time to time, until such time as its business is completed, providing that adequate notice of each adjournment is so given.  
State Law Reference: Sections 70.46 and 70.47, Wis. Stats.

#### SEC. 2-5-2 GENERAL PROVISIONS REGARDING MEETINGS AND PUBLIC NOTICE.

- (a) **Regular Meetings; Public Notice.** Every Board, Committee and Commission created by or existing under the Ordinances of the Town of Marion shall:
  - (1) Fix a regular date, time and place for its meetings;
  - (2) Post or, when necessary, publish notice in the official Town newspaper in advance of each such regular meeting of the date, time and place thereof; and
  - (3) Post, on the front door of the Town Hall, an agenda of the matters to take up at such meeting.
- (b) **Special Meetings.** Nothing in Subsection (a) shall preclude the calling of a special meeting or with dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of Sections 19.81 to 19.89, Wis. Stats.



**(c) Minutes.** The Secretary of each Board, Committee and Commission shall file a copy of the meeting minutes of such Board or Commission with the Town Clerk.

## CHAPTER 6

### Ethical Standards

2-6-1 Definitions

2-6-2 Declaration of Policy

2-6-3 Statutory Standards of Conduct

2-6-4 Specific Conflicts of Interest

#### **Sec. 2-6-1 DEFINITIONS.**

**(a) Public Officer.** Means those persons serving in statutory elected or appointed offices provided for in Chapter 60 of the Wisconsin Statutes, and all members appointed to boards, committees and commissions established or appointed by the Town Chairperson and/or Town Board, whether paid or unpaid.

**(b) Public Employee.** Means any person excluded from the definition of a public officer who is employed by the Town.

#### **SEC. 2-6-2 DECLARATION OF POLICY.**

It is declared that high ethical standards among Town officers and employees are essential to the conduct of good representative government and that a code of ethics for the guidance of public officers and employees will help them avoid conflicts with improved standards of public service and will promote and strengthen the confidence of the residents of the Town in their public officers and employees. The purpose of this Chapter is to establish guidelines for ethical standards of conduct for all such Town officers and employees by setting forth those acts or actions that are incompatible with the public interest and which compromise, or appear to compromise, public trust in the fairness, independence and integrity of Town officers and employees and their official actions.

### **SEC. 2-6-3 STATUTORY STANDARDS OF CONDUCT.**

The provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Chapter and shall apply to all public officers and public employees whenever applicable, to wit:

- (a) **Section 946.10.** Bribery of Public Officers and Employees.
- (b) **Section 946.11.** Special Privileges from Public Utilities.
- (c) **Section 946.12.** Misconduct in Public Office.
- (d) **Section 946.13** Private Interest in Public Contract Prohibited.

### **SEC. 3-6-4 SPECIFIC CONFLICTS OF INTEREST.**

- (a) **Use of Public Property.** No public officer or employee shall use or permit the use of Town vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as Town policy for the use of such officer or employee in the conduct of official business, as authorized by the Town Board or authorized board, commission or committee.
- (b) **Conflicts of Interest; Disclosure of Interest.** Except as provided herein, no public officer or public employee shall engage in any business transaction with the Town or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or will tend to impair his independence or judgment or action in the performance of his official duties. Any public officer or employee who has a substantial financial interest, including employment, in any business entity entering into, proposing to enter into or bidding on any transaction with the Town, or as part of his official duties will be making an official decision or recommendation significantly affecting a business competitor, client or regular customer, shall disclose such interest to the membership of the Town Board (or committee, board or commission thereof, as appropriate) to be recorded in the minutes of that body. Upon such disclosure, it is advised that the public officer or employee abstain from voting on the matter and from participation in the discussion of the matter.
- (c) **Representing Private Interests Before the Town Board or Town Agencies.** No public officer or employee, including persons or firms engaged to provide professional services to the Town, shall represent, for compensation, private interests before the Town Board

or any village board, commission or committee without disclosure of the private business relationship and explicit consent of the Tow Board.

- (d) Disclosure of Confidential Information.** No public officer or employee shall, without proper authorization of the Town Board, disclose confidential information concerning the property, government or affairs of the Town, nor shall he use such information to advance the financial or other private interest of himself or others.
- (e) Gifts and Favors.** No public officer or employee shall accept anything of value whether in the form of a gift, service loan or promise from any person, who, to his knowledge, has a direct financial interest in any transaction or official business with the Town, which may tend to impair his independence of judgment or action in the performance of his official duties. However, it is not a conflict of interest for any public officer or employee to receive a gift of gratuity that is an unsolicited item of nominal intrinsic value, such as a meal to Ten dollars (\$10.00) in value.
- (f) Outside Employment.** No full-time officer of the Town shall engage in any other remunerative employment within or without the Town; provided that the Town Board may approve such outside employment or activity if it finds that it does not interfere or conflict with such ability of the officer or employee to perform his duties in an efficient and unbiased manner.
- (g) Advisor Opinion.** Any questions as to the interpretation of any provisions of this Ethical Standards Chapter shall be referred to the Town Attorney for an advisory opinion.

## CHAPTER 7

### Finance

- 2-7-1 Preparation and Adoption of Budget
- 2-7-2 Changes in Budget
- 2-7-3 Town Funds to be Spent in Accordance with Appropriation
- 2-7-4 Annual Financial Statement
- 2-7-5 Finance Book
- 2-7-6 Financial Audits
- 2-7-7 Claims Against Town
- 2-7-8 Disbursements from Town Treasury
- 2-7-9 Facsimile Signatures
- 2-7-10 Public Depository
- 2-7-11 Temporary Investment of Funds Not Immediately Needed
- 2-7-12 Public Contracts and Competitive Bidding
- 2-7-13 Receiving Money; Receipt
- 2-7-14 Duplicate Treasurer's Bond Eliminated
- 2-7-15 Statement of Real Property Status

#### **SEC. 2-7-1 PREPARATION AND ADOPTION OF BUDGET**

- (a) Fiscal Year; Annual Budget.** The Town fiscal year is the calendar year. The Town budget shall be adopted annually.

**(b) Preparation.** The Town Board is responsible for preparation of the proposed budget required under Sec. 65.90, Wis. Stats. In preparing the budget, the Town Board may provide for assistance by any person.

**(c) Estimates.** When requested by the Chairperson, Town Board or Town Clerk, each officer, department and committee shall annually file with the Town Clerk an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Town Clerk and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.

**(d) Form of Proposed Budget.**

- (1) The actual experience of each department and activity for the expired portion of the current year, and last preceding fiscal year, and the estimated expense of conducting each department and activity of the Town for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
- (2) An itemization of all anticipated income of the Town from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Town from each of the same or similar sources for the last preceding and current fiscal year.
- (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
- (4) All existing indebtedness of the Town, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Town and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
- (5) Such other information as may be required by the Board and by state law.

**(e) Copies of Budget.** The Town shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

**(f) Hearing.** The Town Board shall conduct the budget hearing required under Sec. 65.90, Wis. Stats.

**(g) Adoption.** The Town Board shall adopt the Town budget. The Town meeting may either retain authority to approve any tax levy needed to support spending approved by the Town Board or may delegate the authority to approve a tax levy to the Board.

**(h) Amendment.** The Town budget may be amended by the Town Board under Sec. 65.90(5), Wis. Stats.

State Law Reference: Section 60.40 and 65.90, Wis. Stats.

## **SEC. 2-7-2 CHANGES IN BUDGET.**

The adopted budget shall not be changed after approval of the budget except upon the recommendation of the Chairperson and upon a two-thirds (2/3) vote of the entire membership of the Town Board. Notice of such transfer shall be given by publication within eight (8) days thereafter in the official Town newspaper.

## **SEC. 2-7-3 TOWN FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATION.**

No money shall be drawn from the treasury of the Town, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 2-7-2 of this Chapter. At the close of each fiscal year, any unencumbered balance of any appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue to force until the purpose for which it was made shall have been accomplished or abandoned.

## **2-7-4 ANNUAL FINANCIAL STATEMENT**

The Town Board annually shall prepare a statement of the financial condition of the Town and present the statement to the annual town meeting. In preparing the statement, the Town

Board may provide for assistance by any person. The statement shall include the previous year's revenues and expenditures and the current indebtedness of the Town.

State Law Reference: Section 60.41, Wis. Stats.

## **SEC. 2-7-5 FINANCE BOOK.**

The Town Clerk shall maintain a finance book under Sec. 60.33(33), Wis. Stats.

## **2-7-6 FINANCIAL AUDITS.**

The Town Board may provide for financial audits under Sec. 66.041, Wis. Stats.

State Law Reference: Section 60.43, Wis. Stats.

## **SEC. 2-7-7 CLAIMS AGAINST TOWN.**

(a) Claims for money against the Town or against officers, officials, agents or employees of the Town arising out of acts done in their official capacity shall be filed with the Town Clerk as provided under Sec. 893.80(1)(b), Wis. Stats.

(b) The Town Board shall allow or disallow the claim. Notice or disallowance shall be made as provided under Sec. 893.80(1)(b), Wis. Stats.

State Law Reference: Section 60.44, Wis. Stats.

## **SEC. 2-7-8 DISBURSEMENTS FROM TOWN TREASURY**

Disbursements from the Town Treasury shall be made under Sec. 66.042, Wis. Stats. Each check representing a disbursement or transfer of Town funds must be signed by both the Clerk and Treasurer, unless the Town Board adopts a resolution, which is filed with each public



depository holding Town funds, requiring only two (2) signatures. Each check must also be signed by the person who chairs the Town Board.

State Law Reference: Section 60.45, Wis. Stats.

#### **SEC. 2-7-9 FACSIMILE SIGNATURES.**

In lieu of the personal signatures of the Town Treasurer, Clerk and Chairperson, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Town Board, but the use of the facsimile signature shall not relieve such official from any liability to which he is otherwise subject, including the unauthorized use thereof.

#### **SEC. 2-7-10 PUBLIC DEPOSITORY.**

The Town Board shall designate one (1) or more public depositories for depositing funds of the Town. The Treasurer and the Treasurer's surety are not liable for loss, as defined under Sec. 34.01(6), Wis. Stats., or money deposited in the name of the Town in a designated public depository. Interest accruing from Town money in a public depository shall be credited to the Town.

State Law Reference: Section 60.46, Wis. Stats.

#### **SEC. 2-7-11 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.**

The Town Treasurer may invest any Town funds not immediately needed, pursuant to Section 66.04(2) and 219.05, Wis. Stats.

State Law Reference: Section 66.04(2) and 219.05, Wis. Stats.

#### **SEC. 2-7-12 PUBLIC CONTRACTS AND COMPETITIVE BIDDING.**

**(a) Definitions.** In this Section:

**(1)** “Public Contract” means a contract for the construction, execution, repair, remodeling or improvement of any public work or building or for the furnishing of materials or supplies, with an estimated cost greater than Five Thousand Dollars (\$5,000.00).

**(2)** “Responsible bidder” means a person who, in the judgment of the Town Board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.

**(b) Advertisement of Bids.** Except as provided in Subsections (d) and (e), the Town may not enter into a public contract unless the Town Board, or a Town official or employee designated by the Town Board, advertises for proposals to perform the terms of the public contract by publishing a Class 2 notice under Ch. 985, Wis. Stats. The Town Board may provide for additional means of advertising for bids. Pursuant to Subsection (a)(1) above, this advertising requirement does not apply to the purchase of equipment; it applies only to the purchase of materials or supplies expected to cost more than Five Thousand Dollars (\$5,000.00).

**(c) Contracts to Lowest Responsible Bidder.** The Town Board shall let a public contract for which advertising for proposals is required under Subsection (b) to the lowest responsible bidder. Section 66.29, Wis. Stats., applies to public contracts let under this section.

**(d) Contracts with Governmental Entities.** This Section does not apply to public contracts entered into by a town with a municipality, as defined under Sec. 66.30(1)(a), Wis. Stats.

**(e) Exception for Emergencies.** Sec. 60.47(5), Wis. Stats., and this Section are optional with respect to public contracts for the repair and construction of public facilities when damage or threatened damage to the facility creates an emergency, as declared by resolution of the Town Board that endangers the public health or welfare of the Town. This Subsection does not apply with the Town Board declares that the emergency no longer exists.

**(f) Application to Work by Town.** This Section does not apply to any public work performed directly by the Town.

State Law Reference: Section 60.47, Wis. Stats.

## **SEC. 2-7-13 RECEIVING MONEY; RECEIPT FOR SAME.**

(a) The Town Treasurer shall not receive any money into the treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she

may then be serving, without giving a receipt therefor in the manner specified by the Town Board.

- (b) Upon the payment of any money (except for taxes as herein provided), the Treasurer shall make out a receipt in duplicate for the money so received. The Treasurer shall charge the amount thereof to the treasury and credit the proper account. The payment of the money to any receiving agent of the Town or to the Town or the Treasurer shall be safeguarded in such manner as the Town Board shall direct.

State Law Reference: Section 66.113, Wis. Stats.

#### **SEC. 2-7-14 DUPLICATE TREASURER'S BOND ELIMINATED.**

- (a) **Bond Eliminated.** The Town of Marion elects not to give the bond on the Town Treasurer provided for by Sec. 70.67(1), Wis. Stats.

- (b) **Town Liable for Default of Treasurer.** Pursuant to Sec. 70.67(2), Wis. Stats., the Town shall be obligated to pay, in case the Treasurer shall fail to do so, all state and county taxes required by law to be paid by such Treasurer to the County Treasurer.

State Law Reference: Section 70.67, Wis. Stats.

#### **SEC. 2-7-15 STATEMENT OF REAL PROPERTY STATUS.**

The Town Clerk is authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in the assessments, amount of taxes, contemplated improvements, floodplain status, violation of the building codes and similar information. Any such information sought shall be provided to the person requesting it on said form. The Town Clerk shall collect a fee of Five Dollars (\$5.00) for furnishing such information on said form.

## **CHAPTER 8**

### Special Assessments

- 2-8-1 Town Board May Levy Special Assessments
- 2-8-2 Resolution and Report Required
- 2-8-3 Costs That May Be Paid By Special Assessments
- 2-8-4 Exemptions; Deductions
- 2-8-5 Notice of Proposed or Approved Project
- 2-8-6 Board Actions After Hearing
- 2-8-7 Combined Assessments
- 2-8-8 Board's Power to Amend, Cancel or Confirm Special Assessment
- 2-8-9 Where Cost of Improvement is Less Than Assessment
- 2-8-10 Appealed Assessments Payable When Due
- 2-8-11 Special Assessment a Lien on Property
- 2-8-12 Special Charges Permissible
- 2-8-13 Miscellaneous Provisions

#### **SEC. 2-8-1 TOWN BOARD MAY LEVY SPECIAL ASSESSMENTS.**

- (a) The Town of Marion by resolution of its Town Board may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement.
- (b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property there from, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Town Board.

State Law Reference: Section 66.622 Wis. Stats.

#### **SEC. 2-8-2 RESOLUTION AND REPORT REQUIRED.**

- (a) Prior to making any such special assessments, the Town Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under Section 2-8-5 of this Chapter and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.
- (b) The report required by Subsection (a) shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) An estimate of the entire cost of the proposed work or improvement.
  - (3) An estimate as to each parcel of property affected of:
    - a. The assessment of benefits to be levied.
    - b. The damages to be awarded for property taken or damaged.
    - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
  - (4) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimate required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
  - (5) A copy of the report when completed shall be filed with the Town Clerk for public inspection.

### **SEC. 2-8-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.**

The cost of any work or improvement to be paid in whole or in part by special assessment or property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Town and the cost of any architectural, engineering and legal services and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Town Board.

### **SEC. 2-8-4 EXEMPTIONS; DEDUCTIONS.**

- (a) If any property deemed benefited shall, by reason of any provision of law, be exempt from assessment therefor, such assessment shall be computed and shall be paid by the Town.

- (b) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Town Board determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. Under any circumstance, the assessment will not be less than the long way of such lot. The Town Board may allow a similar deduction or exemption from special assessments levied for any other public improvement.

#### **SEC. 2-8-5 NOTICE OF PROPOSED OR APPROVED PROJECT.**

On the completion and filing of the report required in Section 2-8-2(b)(5) of this Chapter, the Town Clerk shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Town Board or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be given either by publication in the official Town newspaper or posted in not less than three (3) public places within the Town and a copy of said notice shall be mailed to each interested person whose post office address is known. The hearing shall commence not less than ten (10) days and not more than forty days after the publication or posting of said notice.

#### **SEC. 2-8-6 BOARD ACTIONS AFTER HEARING.**

- (a) After the hearing, the Town Board may approve, disapprove, modify or re-refer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specification so as to accomplish a fair and equitable assessment.
- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Town Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- (c) (1) If the work or improvement has not been previously authorized or approved, the Town Board shall approve the work or improvements and, by resolution, direct that the same be done and paid for in accordance with the report finally approved.  
  
(2) If the work or improvement has been approved by the Town Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Town Board shall, by resolution, confirm the report as made or modified and provide for payment in whole or in part by assessment.

(d) The Town Clerk shall publish the final resolutions as required in Section 2-8-5 of this Chapter.

(e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Section 66.60(12), Wis. Stats., or any other applicable provision of law.

#### **SEC. 2-8-7 COMBINED ASSESSMENTS.**

If more than a single improvement is undertaken, the Town Board may combine the assessments as a single assessment on each property affected except that the property owner may object to any one (1) or more of said improvements.

#### **SEC. 2-8-8 BOARD'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.**

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Town Board determines to reconsider any assessment, it is empowered, after giving notice as required in Section 2-8-5 to amend, cancel or confirm any prior assessment, and notice of this amending, canceling or confirming be given by the Town Clerk as provided in Section 2-8-6 of this Chapter.

#### **SEC. 2-8-9 WHERE COST OF IMPROVEMENT IS LESS THAN ASSESSMENT.**

If the cost of the work or improvement is less than the assessment levied, the Town board, without notice or hearing, shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the Town shall refund the property owner such overpayment.

#### **SEC. 2-8-10 APPEALED ASSESSMENT PAYABLE WHEN DUE.**

Pursuant to Subsection (12)(F) of Section 66.60, Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable and upon default in payment any such appeal shall be dismissed.

#### **SEC. 2-8-11 SPECIAL ASSESSMENT A LIEN ON PROPERTY.**

Pursuant to Subsection (13) of Section 66.60, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the Town. The Town Board shall provide for the collection of such assessments and may establish penalties for

payment after the due date. The Town Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

#### **SEC. 2-8-12 SPECIAL CHARGES PERMISSIBLE.**

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by the Town Board by allocation all or part of the cost of the property served. Such may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair or sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care or removal. The provision for notice of such charges shall be optional with the Town Board except that, in the case of street, sidewalk, curb and gutter repair, twenty (20) days notice published in the Town newspaper, or by posting such notice in three (3) places in the Town and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Town Board as to whether the service in question shall be performed.
- (b) Such special charges shall not be payable in installments. If not paid within the period fixed by the Town Board, such delinquent charge shall become a lien as provided in Section 2-8-11 of this Chapter.
- (c) Section 2-8-2(a) of this Chapter shall not be applicable to proceedings under this Section.

#### **SEC. 2-8-13 MISCELLANEOUS PROVISIONS.**

- (a) If any assessment or charge levied under this Chapter is invalid because such statutes are found to be unconstitutional, the Town Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Town Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon property benefited if notice and hearing is waived in writing by property owners affected.
- (c) Notwithstanding any other provision of law or this or other Ordinance or resolution, it is specifically intended and provided by this Chapter that the Town may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.



## CHAPTER 9

### Public Records

- 2-9-1 Definitions
- 2-9-2 Duty to Maintain Records
- 2-9-3 Legal Custodian(s)
- 2-9-4 Public Access to Records
- 2-9-5 Access Procedures
- 2-9-6 Limitations on Right to Access
- 2-9-7 Destruction of Records
- 2-9-8 Preservation Through Microfilm

#### **SEC. 2-9-1 DEFINITIONS.**

- (a) "Authority" means 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 subunit of the foregoing.
- (b) "Custodian" means that office, department head, division, head or employee of the Town designated under Section 2-9-3 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.
- (c) "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 relation to this 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) "Town" shall mean the Town of Marion, Waushara County, Wisconsin, and its administrative subunits.

## **SEC. 2-9-2 DUTY TO MAINTAIN RECORDS.**

- (a) Except as provided under Section 2-9-7, each officer and employee of the Town shall safety 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, who shall file said receipt with the Town Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to such successor upon the latter's receipt.

## **SEC. 2-9-3 LEGAL CUSTODIAN(S).**

- (a) 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 an employee of his or her staff to act as the legal custodian.
- (b) Unless otherwise prohibited by law, the Town Clerk or his designee shall act as legal custodian for all Town records, the Town Board and for any committees, commissions, board or other authorities created by ordinance or resolution of the Town Board, except that the Town Treasurer shall be the legal custodian for the Town Board all records in his possession. In the event that the Town Clerk is not available, then the Town Clerk shall designate someone to act in its behalf as legal custodian.
- (c) 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 legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.
- (e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subch. 11 of Ch. 19, Wis. Stats., and this Chapter. The designation of a legal custodian does not affect the powers and duties of an authority under this Section.

## **SEC. 2-9-4 PUBLIC ACCESS TO RECORDS.**

- (a) Except as provided in Section 2-9-6, any person has a right to inspect a record and to make or receipt a copy of any record as provided in Sec. 19.35(1), Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (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 Town employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervisor 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. No original public records of the Town shall be removed from the possession of the legal custodian.
- (f) A requester shall be charged a fee to defray the cost of location and copying records as follows:

- (1) The cost of photocopying shall be twenty-five cents (\$.25) per page, excluding accident reports. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
- (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-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 therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester. The Town will determine the cost of locating a record by using the hourly rate of Twenty Dollars (\$20.00) per hour for employees involved in attempting to locate the record.
- (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 Town 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. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Sections 2-9-4 through 2-9-6 of this chapter. This Subsection does not apply to members of the Town Board.

#### **SEC. 2-9-5 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 a 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 reinforce 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 2-9-4(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 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.
- (c) A request for a record may be denied as provided in Section 2-9-6. 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 (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 Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

## **SEC. 2-9-6 LIMITATIONS OF RIGHT TO ACCESS.**

- (a) As provided by 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, although the material used as input for a computer program 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.
- (b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.
- (c) 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 or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the request 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 Section 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of 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.

- (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 Town property, investing of Town funds or other Town 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 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, agent 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 record of advice given by such ethics board on such requests.
- (d) 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 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 nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

## **SEC. 2-9-7 DESTRUCTION OF RECORDS.**

- (a) 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 Chapter 442 of the Wisconsin Statutes but not less than seven (7) years after payment of receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:
  - (1) Bank statements, deposit books, slips and stubs.
  - (2) Bonds and coupons after maturity.
  - (3) Canceled checks, duplicates and check stubs.

- (4) License and permit applications, stubs and duplicates.
  - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
  - (6) Receipt forms.
  - (7) Special assessment records.
  - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) 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 of the Wisconsin Statutes, 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 Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two (2) years.
- (1) Contracts and papers relating thereto;
  - (2) Excavation permits;
  - (3) Inspection records.
- (c) 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 a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.
- (1) Contracts and papers relating thereto.
  - (2) Correspondence and communications.
  - (3) Financial reports other than annual financial reports.
  - (4) Justice dockets.
  - (5) Oaths of office.
  - (6) Reports of boards, commissions, committees and officials duplicated in the Town Board proceedings.
  - (7) Election notices and proofs of publication.
  - (8) Canceled voter registration cards.
  - (9) Official bonds
  - (10) Police records other than investigative records.
  - (11) Resolutions and petitions.
- (d) 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 Sec. 19.21(4)(a), Wis. Stats.

- (e) 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.

## **SEC. 2-9-8 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 Sec. 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 Sections 2-9-4 through 2-9-6 of this Chapter.



## CHAPTER 10

### Review of Administrative Determinations

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#### **SEC. 2-10-1 REVIEW OF ADMINSTRATIVE DETERMIATIONS.**

Any person aggrieved by an administrative determination of the Town Board or a board, commission, committee, agency, officer or employee of the Town or agent acting on its behalf may have such determination reviewed as provided in this Chapter. The remedies under this Chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

State Law Reference: Section 68.01, Wis. Stats.

#### **SEC. 2-10-2 DETERMINATIONS REVIEWABLE.**

The following determinations are reviewable under this Chapter:

- (a) The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.

- (b) The suspension, revocation or nonrenewal of an existing permit, license right, privilege or authority, except as provided in Section 2-10-3(d).
- (c) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
- (d) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.
- (e) The suspension or removal of a Town officer or employee except as provided in Section 2-10-3(b) and (g).

State Law Reference: Section 68.02, Wis. Stats.

### **SEC. 2-10-3 DETERMINATIONS NOT SUBJECT TO REVIEW.**

The following determinations are not reviewable under this Chapter:

- (a) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Town Board.
- (b) Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.
- (c) The denial of a tort or contract claim for money required to be filed with the Town under Sec. 62.26, Wis. Stats.
- (d) The grant, denial, suspension or revocation of a fermented malt beverage license under Ch. 125, Wis. Stats.
- (e) Judgments and orders of a court.
- (f) Determinations made during municipal labor negotiations.
- (g) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

State Law Reference: Section 68.03, Wis. Stats.

### **SEC. 2-10-4 MUNICIPAL AUTHORITY DEFINED.**

“Municipal authority” includes the Town Board, commission, committee, agency, officer, employee or agent of the Town making a determination under Section 2-10-1, and every person, committee or agency of the Town to make an independent review under Section 2-10-8(b).

State Law Reference: Section 68.05, Wis. Stats.

### **SEC. 2-10-5 PERSONS AGGRIEVED.**

A person aggrieved includes any individual, partnership, corporation, association, public or private organization; officer, department, board, commission or agency of the Town, whose

rights, duties or privileges are adversely affected by a determination of a municipal authority. No Department, board, commission, agency, officer or employee of the Town who is aggrieved may initiate review under this Chapter of a determination of any other department, Board, commission, agency, officer or employee of the Town, but may respond or intervene in a review proceeding under this Chapter initiated by another.

State Law Reference: Sections 68.01 and 68.08, Wis. Stats.

### **SEC. 2-10-6 REDUCING DETERMINATION TO WRITING.**

If a determination subject to this Chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within ten (10) days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, that such review may be obtained within thirty (30) days and the office or person to whom a request for review shall be addressed.

State Law Reference: Section 68.07, Wis. Stats.

### **SEC. 2-10-7 REQUEST FOR REVIEW OF DETERMINATION.**

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within thirty (30) days of notice to such person or such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

State Law Reference: Section 68.08, Wis. Stats.

### **SEC. 2-10-8 REVIEW OF DETERMINATION.**

- (a) **Initial Determination.** If a request for review is made under Section 2-10-7, the determination to be reviewed shall be termed an initial determination.
- (b) **Who Shall Make Review.** A review under this Section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another

person, committee or agency of the Town, appointed by the Chairperson without confirmation, shall be provided if practicable.

- (c) **When to Make Review.** The municipal authority shall review the initial determination within fifteen (15) days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.
- (d) **Right to Present Evidence and Argument.** The person aggrieved may file with his request for review, or within the time agreed with the municipal authority, written evidence and argument to support of his position with respect to the initial determination.
- (e) **Decision on Review.** The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision in review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, the appeal may be taken within thirty (30) days and the office or person with whom notice of appeal shall be filed.

State Law Reference: Section 68.09, Wis. Stats.

## **SEC. 2-10-9 ADMINISTRATIVE APPEAL.**

- (a) **From Initial Determination or Decision on Review.**
  - (1) If the person aggrieved had a hearing substantially in compliance with Section 2-10-10 when the initial determination was made, he may elect to follow Sections 2-10-6 through 2-10-8, but is not entitled to a further hearing under Section 2-10-10 unless granted by the municipal authority. He may, however, seek judicial review under Section 2-10-12.
  - (2) If the person aggrieved did not have a hearing substantially in compliance with Section 2-10-10 when the initial determination was made, he shall follow Sections 2-10-6 through 2-10-8 and may appeal under this Section from the decision made under Section 2-10-8.
- (b) **Time Within Which Appeal May Be Taken Under This Section.** Appeal from a decision on review under Sections 2-10-8 may be taken within thirty (30) days of notice of such decision.
- (c) **How Appeal May Be Taken.** An appeal under this Section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

State Law Reference: Section 68.10, Wis. Stats.

## **SEC. 2-10-10 HEARING ON ADMINISTRATIVE APPEAL.**

- (a) Time of Hearing.** The Town shall provide the appellant a hearing on an appeal under Section 2-10-9 within fifteen (15) days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten (10) days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Town Attorney, who shall forthwith advise the Chairperson of such appeal.
- (b) Conduct of Hearing.** At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Chairperson shall appoint, without confirmation, an impartial decision maker who may be an officer, committee, board or commission of the Town or the Town Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Chairperson to conduct the hearing and report to the decision maker.
- (c) Record of Hearing.** The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall make and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant, shall cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Town.
- (d) Hearing on Initial Determination.** Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this Section before making such determination.
- State Law Reference: Section 68.11, Wis. Stats.

## **SEC. 2-10-11 FINAL DETERMINATION.**

- (a) Within twenty (20) days of completion of the hearing conducted under Section 2-10-10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
- (b) A determination following a hearing substantially meeting the requirements of Section 2-10-10 or a decision on review under Section 2-10-8 following such hearing shall be a final determination, judicial review of which may be obtained under Section 2-10-12.
- State Law Reference: Section 68.12, WIS Stats.

## **SEC. 2-10-12 JUDICIAL REVIEW**

- (a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final determination.
- (b) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the Town and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

State Law Reference: Section 68.13, Wis. Stats.

### **SEC. 2-10-13 LEGISLATIVE REVIEW.**

- (a) Seeking review pursuant to this Chapter does not preclude a person aggrieved from seeking relief from the Town Board or any of its boards, commissions, committees or agencies which may have jurisdiction.
- (b) If, in the course of legislative review under this Section a determination is modified, such modification and any evidence adduced before the Town Board, board, commission, committee or agency shall be made part of the record on review under Section 2-10-12.
- (c) The Town Board, board, commission, committee or agency conducting a legislative review under this Section need not conduct the type of hearing required under Section 2-10-10.

State Law Reference: Section 68.14, Wis. Stats.