

Chapter 2

ADMINISTRATION

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Article I. In General

Sec. 2-1. Penalty.

Except as otherwise provided herein, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in Section 1-14.

Secs. 2-2—2-30. Reserved.

Article II. Town Board

State Law reference— Town board, Wis. Stat. § 60.20 et seq.

Division 1. Generally

Sec. 2-31. Rules of procedure.

- (a) Order and decorum, deliberations of the town board and decisions on all questions of order and conduct in the proceedings of town meetings shall be in accordance with the parliamentary rules contained in Robert's Rules of Order, Newly Revised, unless otherwise provided by statute or these rules. No person other than a member shall address the town board, except by a vote of a majority of the members present. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the motion and the person seconding it.
- (b) Nothing prescribed in this section concerning the conduct and procedure of regular and special town board meetings shall apply to the annual town meeting as prescribed in Wis. Stat. § 60.11 or special town meetings as prescribed in Wis. Stat. § 60.12. (Code 1982, § 2.01)

Sec. 2-32. Ordinances and resolutions.

Ordinances, resolutions, bylaws, communications and other matters submitted to the town board shall be read by title and author and referred to the appropriate committee, if any, by the chairperson. The clerk-treasurer shall read and record each such reference by title. Any supervisor may require the reading in full of any matter when it is before the town board. No

ordinance, resolution or bylaw shall be considered unless it is presented and introduced in writing by a supervisor. Unless requested by a supervisor before final vote is taken, no ordinance, resolution or bylaw need be read in full. Any ordinance, resolution or bylaw introduced in writing by any supervisor as above stated may be adopted by the town board at the same meeting it was introduced by a majority vote of all the town supervisors. (Code 1982, § 2.06)

Sec. 2-33. Suspension of rules.

These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of two-thirds of the town board members present. (Code 1982, § 2.07)

Secs. 2-34—2-50. Reserved.

Division 2. Meetings

State Law reference— Open meetings law, Wis. Stat. § 19.81 et seq.

Sec. 2-51. Open meeting law requirements.

Notice of every meeting of the town board, and every board, commission and committee thereof, shall be given to the public, to those news media who have filed a written request for such notice and to the official newspaper or to a news medium likely to give notice in the area at least 24 hours prior to commencement of the meeting. If such notice is impossible or impractical, shorter notice may be given for good cause shown, but no notice shall be given less than two hours in advance of the meeting. Every public notice of a meeting shall contain the time, date, place and subject matter of the meeting.

(Code 1982, § 2.02(1))

State law reference— Notice, Wis. Stats. § 19.84.

Sec. 2-52. Regular meetings.

Regular meetings of the town board shall be held on the second and fourth Monday of each calendar month at 7:30 p.m. Regular meetings falling on a legal holiday shall be held the next following secular day at the same hour and place. (Code 1982, § 2.02(2))

Sec. 2-53. Special meetings.

Special meetings of the town board may be called by the town chairperson or by any two town supervisors by filing a written request with the clerk-treasurer at least 24 hours prior to the time specified for such meeting. The clerk-treasurer shall immediately notify each supervisor of the time and purpose of such meeting. The notice shall be delivered to each supervisor personally or left at his usual place of abode. The clerk-treasurer shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meeting. Special meetings may be held without notice when all members of the town board are present or consent in

writing to the holding of such special meeting. Unless all supervisors are in attendance, no business shall be transacted at a special meeting except for the purpose stated in the notice thereof. (Code 1982, § 2.02(3))

Sec. 2-54. Notice of meetings.

Anything to the contrary in this article notwithstanding, no meeting shall be held unless notice thereof shall have been given as provided in Wis. Stat. § 19.84. (Code 1982, § 2.02(3))

Sec. 2-55. Place of meetings.

All meetings of the town board, including special and adjourned meetings, shall be held in the office of the clerk-treasurer unless otherwise designated by the town board. Notice of a change of place shall be posted in the office of the clerk-treasurer at least 24 hours prior to the meeting. (Code 1982, § 2.02(4))

Sec. 2-56. Quorum.

Any two supervisors shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time or compel the attendance of the absent members. (Code 1982, § 2.02(5))

Sec. 2-57. Meetings to be public; notice.

All meetings of the town board and subunits thereof shall be open to the public as provided in Wis. Stat. §§ 19.81—19.98. Public notice of all such meetings shall be given as provided in Wis. Stat. § 19.84. (Code 1982, § 2.02(6))

Sec. 2-58. Order of business.

The business of the town board shall be conducted in the following manner:

- (1) Call to order by presiding officer.
- (2) Roll call. If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specified date.
- (3) Reading, correction and approval of minutes of previous meeting.
- (4) Committee reports, if any; treasury report, if requested; approval and payment of bills.
- (5) Unfinished business from previous meeting.
- (6) New business, including introduction of ordinances and resolutions.

- (7) Reports of town officers; communications and other business.

(Code 1982, § 2.03)

Sec. 2-59. Presiding officer.

- (a) *Control of meeting.* The town chairperson shall preserve order and conduct the proceedings of all meetings and hearings, whether on petition or regular or special meetings. A member of the town board may appeal from the decision of the presiding officer; such appeal is not debatable and shall be sustained by a majority of the members present, exclusive of the presiding officer.
- (b) *Absence of chairperson.* If the town chairperson is absent at any meeting, the clerk-treasurer shall call the meeting to order and preside until the town board selects a supervisor to preside for that meeting. The clerk-treasurer shall not vote on any issue before the town board.
- (c) *Presiding officer to vote.* The presiding officer shall vote as a supervisor on all questions properly before the town board. The presiding officer may make motions or second motions before the town board. (Code 1982, § 2.04)

Secs. 2-60—2-80. Reserved.

Division 3. Committees

Sec. 2-81. Committee appointments.

The town chairperson shall designate and appoint all members of any standing and special committees established by the town board and shall designate the committee chairpersons. All committee appointments except designation of chairperson shall be subject to confirmation by a majority vote of the town board. (Code 1982, § 2.05(1))

Sec. 2-82. Committee reports.

Each committee shall at the next regular meeting submit a written report on all matters referred to such committee. Such report shall recommend a definite action on each item and shall be signed by a majority of the committee. Any committee may require any town officer to confer with it and supply information in connection with any matter pending before such committee. (Code 1982, § 2.05(2))

Secs. 2-83—2-110. Reserved.

Article III. Officers and Employees

(Cross reference— Any ordinance establishing positions, classifying positions,

establishing pension or employee benefits, setting salaries of town officers and employees or any personnel regulations or indemnifications policies, or otherwise related to employees saved from repeal, § 1-9(15); deputy inspector of department of buildings, § 10-54; fire chief, § 26-91 et seq.; fire inspector, § 26-111 et seq.)

Sec. 2-111. Elected officers.

- (a) At the annual spring election in the odd-numbered years, there shall be elected three town board supervisors to numbered seats.
- (b) The positions on the town board shall be chairperson, supervisor No. 1 and supervisor No. 2.
- (c) A nomination of a candidate shall be for a specific seat and the election shall be by use of the form of ballot for election of supervisors to numbered seats.
- (d) No person not an elector of the town shall hold any office.
- (e) The regular term of elected town officers commences on the third Tuesday of April in the year of their election.

(Code 1982, § 1.01; Ord. No. 2007-01, § 1, 3-26-2007; Ord. No. 2012-01, § 2, 2-27-2012) **State law reference—** Elected officers, Wis. Stat. § 60.30.

Sec. 2-112. Appointed officers—Enumerated.

The following officers of the town shall be appointed by the town chairperson, subject to confirmation by the town board, biennially at the regular April town board meeting. The town chairperson shall not vote on confirmation except in case of a tie.

- (1) Building inspector.
- (2) Electrical inspector.
- (3) Emergency government director.
- (4) Plumbing inspector.
- (5) Weed commissioner.
- (6) Zoning administrator (as needed).

(Code 1982, § 1.02(1))

Sec. 2-113. Appointed officers—Town assessor.

The town board shall select by appointment a town assessor and such assistant assessors as the town board may, from time to time, determine. The town assessor shall be appointed on the basis of merit, experience and general qualifications, as determined by the town board, for such period as the town board shall specify, but not to exceed three years. The assistant assessors shall serve at the will of the town board. (Code 1982, § 1.02(2))

Sec. 2-114. Appointed officers—Clerk-treasurer.

The town board shall select by appointment by a majority of the members-elect of the town board a person to fill the combined office of town clerk and town treasurer, to be designated as clerk-treasurer. The term of the clerk-treasurer shall be for a period of three years. The initial term of the clerk-treasurer shall commence at the expiration of the term of the elected clerk and treasurer. The financial records of the town shall be audited at least once each year as provided in Wis. Stat. § 60.43(2). (Code 1982, § 1.02(3))

Sec. 2-115. Oaths and bonds.

Elected and appointed officers shall take and file the official oath within five days after notice of their election or appointment as provided in Wis. Stat. § 60.31, and shall execute and file the official bond as required by state statutes and this Code. (Code 1982, § 1.03)

State law reference— Oath and bond, Wis. Stat. §§ 19.01, 60.31.

Sec. 2-116. Removals.

- (a) *Elected officers.* Elected officers may be removed by the judge of the circuit court for cause pursuant to Wis. Stat. § 17.13(3).
- (b) *Appointed officers.* Appointed officers may be removed as provided in Wis. Stat. §§ 17.13(1) and 17.13(3).
(Code 1982, § 1.04)

Sec. 2-117. Vacancies.

- (a) *How occurring.* Vacancies in elective and appointive positions are caused as provided in Wis. Stat. § 17.03.
- (b) *How filled.* Vacancies in elective and appointive offices shall be filled as provided in Wis. Stat. § 17.25. (Code 1982, § 1.05)

Sec. 2-118. Compensation.

The compensation of all elected and appointed officers, including members of boards and commissions, shall be as determined by the annual town meeting or the town board, where

applicable, provided salaries and compensation rates of elected officers shall not be changed during their terms of office, except as provided by statute. (Code 1982, § 1.06)

State law reference— Compensation of elected officers, Wis. Stat. § 60.32.

Sec. 2-119. Receipt of gifts and gratuities.

- (a) *Restricted.* No town employee or officer shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he is not authorized to receive from any person who:
- (1) Has or is seeking to obtain contractual or other business or financial relationships with the town or town board;
 - (2) Conducts operations or activities which are regulated by the town or town board; or
 - (3) Has interests which the town or town board may be substantially affected;
- (b) *Penalty.* The receipt of any gift, gratuity or other thing of value as denoted above is contrary to the public policy of the town and is punishable as provided in Wis. Stat. § 946.12. Such conduct shall also be punishable under section 1-14.

(Code 1982, § 1.07)

State law reference— Misconduct in office, Wis. Stat. § 946.12.

Sec. 2-120. Outside employment.

No full-time officer or employee of the town shall engage in any other remunerative employment within or without the town. However, the town board may approve such outside employment or activity if it finds that it does not interfere or conflict with such officer's or employee's ability to perform his duties in an efficient or unbiased manner. Violation of this section shall be grounds for removal from office of any such officer or employee. (Code 1982, § 1.08)

Sec. 2-121. Duties – Generally.

The duties of all elected or appointed officers and employees of the town shall be as prescribed by the applicable state statute pertaining to town officers and by applicable town ordinances, and such additional duties and responsibilities as established from time to time by the town board. (Code 1982, § 1.09(1))

Sec. 2-122. Reserved.

Editor's note—

Section 3 of Ord. No. 2007-01, adopted Mar. 26, 2007, repealed § 2-122, which pertained to the duties of the town constable and derived from the 1982 Code.

Sec. 2-123. Duties – Town chairperson.

The town chairperson shall sign all ordinances, resolutions, bylaws, orders, regulations, contracts, commissions, licenses and permits adopted or authorized by the town board; provided, however, in the absence of the town chairperson, another supervisor designated by the town board may sign in the place of the town chairperson. Licenses and permits adopted or authorized by the town board may be signed by the clerk-treasurer in lieu of the town chairperson. (Code 1982, § 1.09(3))

Sec. 2-124. Nondiscrimination.

- (a) The town and its representatives shall not discriminate against or interfere with any employee on account of membership or nonmembership in any labor organization.
- (b) The town and its representatives shall not discriminate with respect to any employee because of race, creed, color, national origin or sex.
(Code 1982, § 1.10)

Sec. 2-125. Adoption of village powers.

The town board shall have and exercise all powers relating to villages and conferred on village boards by Wis. Stat. ch. 61, except such powers and exercise of which would conflict with the state statutes relating to towns and town boards. (Code 1982, § 1.11)

Secs. 2-126—2-150. Reserved.

Article IV. Boards, Committees, Commissions

Cross reference— Emergency government committee, § 18-33; fire commission, § 26-31 et seq.

Division 1. Generally

Secs. 2-151—2-170. Reserved.

Division 2. Health Department

Sec. 2-171. Local board of health, local health department and local health Officer.

- (a) *Intermunicipal Agreement Providing for Joint Local Board of Health, Joint Local Health Department and Joint Local Health Officer.* By intermunicipal agreement the Villages of Caledonia, Mt. Pleasant, Sturtevant and North Bay have created a Joint Local Board of

Health, established a Joint Local Health Department and appointed a Joint Local Health Officer to serve the above Villages, as well as other municipalities that are added as members to the intermunicipal agreement ("Member Municipalities"), or otherwise contract for the provision of public health services ("Contract Municipalities"). This Agreement is entered into pursuant to the authority set forth in Wis. Stat. Sections 66.0301, 251.09 and 251.02(3r).

- (b) *Designation of Local Board of Health, Local Health Department and Local Health Officer.* The Joint Local Board of Health created by the intermunicipal agreement is hereby designated the "Central Racine County Board of Health" and is established as the joint local board of health of the Member Municipalities and Contract Municipalities pursuant to Section 251.02(3r), Wisconsin Statutes. The Central Racine County Health Department established pursuant to the intermunicipal agreement is hereby designated and established as the local health department of the Member Municipalities and Contract Municipalities pursuant to Section 251.02(3r), Wisconsin Statutes. The local health officer, designated as the Health Officer/Director of Public Health, and provided for in the intermunicipal agreement is hereby designated as the local health officer for the Member Municipalities and Contract Municipalities.
- (c) *Local Board of Health.* The local Board of Health shall be designated as the Central Racine County Board of Health and pursuant to Wis. Stat. Section 251.03(4r), the parties determine that the membership of the Board of Health shall be comprised as set forth in the intergovernmental agreement.
- (d) *Powers and Duties of Local Board of Health.* The Central Racine County Board of Health shall constitute the policy-making body for the Central Racine County Health Department, and shall exercise authority over financial and personnel matters, as set forth in the intermunicipal agreement. The Board of Health shall be responsible for operating and maintaining at least a Level II Health Department to jointly serve the Member Municipalities and Contract Municipalities. The Board of Health shall have the powers and perform such duties as are prescribed in Wis. Stat. Sections 251.04 and 251.05, except as otherwise specifically provided in the intermunicipal agreement or in joint ordinances adopted by Member Municipalities and Contract Municipalities.
- (e) *Effect of Intermunicipal Agreement.* In all other respects such intermunicipal agreement executed by the Member Municipalities shall govern the administration of the Central Racine County Board of Health, Health Department and Joint Local Health Officer.
- (f) *Repeal of Inconsistent Ordinances.* The provisions of this Chapter shall supersede any inconsistent provisions of this Code of Ordinances, which inconsistent provisions shall be, and hereby are, repealed as of the effective date of this ordinance.

Sec. 2-172. Human health hazards.

- (a) *Purpose and General Provisions.*
 - (1) This Section is adopted for the purpose of preserving and promoting the public health of residents and preventing the continuance of Human Health Hazards.

- (2) No Person shall erect, construe, cause, continue, maintain or permit any Human Health Hazards. Any Person who shall cause, create or maintain a Human Health Hazard or who shall in any way aid or contribute to the creation or maintenance thereof shall be guilty of a violation of this Section, and shall be liable for all costs and expenses attendant upon the abatement or removal of such hazards and subject to penalties provided in this Section.
 - (3) No Person shall erect, construe, cause, continue, maintain or permit any Human Health Hazards. Any Person who shall cause, create or maintain a Human Health Hazard or who shall in any way aid or contribute to the creation or maintenance thereof shall be guilty of a violation of this Section, and shall be liable for all costs and expenses attendant upon the abatement or removal of such hazards and subject to penalties provided in this Section.
 - (4) This Section does not prohibit the following activities so long as they are conducted in accordance with the applicable ordinance or State Statute: the sanitary operation of licensed junkyards; or the storage and accumulation of ashes and effuse by industrial establishments which maintain adequate and sanitary facilities and the space for the accumulation and storage of such materials.
- (b) *Authority.* This Section is adopted pursuant to the authority granted by Chapters 251 and 254, Wis. Stats., as amended from time-to-time, which regulations are hereby adopted, and incorporated by reference as though fully set forth herein. The Health Officer or Code Official shall have the power to abate human health hazards in accordance with this Section and Wis. Stat. Section 254.59, which statute is adopted by reference and made part of this Section as if fully set forth in this Section.
- (c) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Chapter, unless a different meaning is plainly intended:
- (1) *Basement.* A portion of a building located partly or wholly underground.
 - (2) *Building Inspector.* The Building Inspector of the Municipality or his or her authorized representative.
 - (3) *Carbon Monoxide Detector.* A device that detects the presence of carbon monoxide gas.
 - (4) *Cellar.* A portion of a building located partly or wholly underground, but having ½ or more of its clear floor to ceiling heights below the average grade of the adjoining ground.
 - (5) *Code Official.* Building Inspector, municipal law enforcement officer, Fire Chief, and/or the Health Officer, or their respective authorized representatives.
 - (6) *Dwelling.* Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

- (7) *Dwelling Unit.* Any room or group of rooms located within a Dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
- (8) *Exterior Premises.* The open space on the premises or the portion of the premises upon which there is not a structure.
- (9) *Extermination.* The control or elimination of insects, rodents or other Vermin by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by blocking their access to a Dwelling, by poisoning, spraying, fumigating or trapping, or by any other legal pest elimination method approved by the Code Official.
- (10) *Health Officer.* The Health Officer of the Central Racine County Health Department or his/her authorized representative.
- (11) *Human Health Hazard.* A substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
- (12) *Immediate Human Health Hazard.* A condition which exists or has the potential to exist which should, in the opinion of the Health Officer, be abated or corrected immediately, or at least within a 24-hour period, to prevent imminent and severe damage to human health.
- (13) *Municipality.* A city, town, or village within the jurisdiction of the Central Racine County Health Department.
- (14) *Occupant.* Any Person living, sleeping or eating or having actual possession of a Dwelling Unit.
- (15) *Owner.* Any Person who, alone or jointly or severally with others shall be the record holder of the title of any Dwelling or Dwelling Unit, with or without actual possession thereof, or who has charge, care or control of any Dwelling as agent of the owner or as executor, administrator, trustee or Guardian of the estate of the owner.
- (16) *Person.* Includes Owners, Occupants, their agents, tenants and any individual, firm, corporation, partnership or association.
- (17) *Smoke Detector.* A device that detects the visible or invisible particles of combustion.
- (18) *Vermin.* Rats, mice, cockroaches or similar animals or insects that are known to be vectors of human pathogens.
- (19) *Workmanlike.* Work of such character so as to meet manufacturer's specifications, accepted national standards or recognized trade practices, and to provide a durable result as intended to ensure public safety, health and welfare insofar as they are affected by building construction, use and occupancy.

(d) *Health Standards for Basic Facilities and Maintenance of Habitable Living Quarters.* No Person shall occupy or allow another Person to occupy any Dwelling or Dwelling Unit for the purpose of living or sleeping therein, which does not comply with the following requirements:

- (1) *Toilet and Lavatory.* Every Dwelling Unit shall contain a water flush toilet within a room which affords privacy to a Person in such room. Every Dwelling Unit shall contain a lavatory basin, preferably but not exclusively in the same room as the toilet. Such toilet and lavatory basins shall be connected and maintained in compliance with the Municipality's plumbing code.
- (2) *Bathing Facilities.* Every Dwelling Unit shall contain, within a room which affords privacy to a Person in such room, a bathtub or shower connected and maintained in compliance with the Municipality's plumbing code.
- (3) *Egress.* Every Dwelling Unit shall have access to at least two accessible, unobstructed means of egress leading to a safe and open public street, alley or court.
- (4) *Heating Facilities.* Every Dwelling or Dwelling Unit shall be equipped with heating facilities which are properly installed, and maintained in a safe and good working condition and are capable of maintaining minimum temperatures of 68 degrees Fahrenheit in all rooms with an outside temperature of -10 degrees Fahrenheit.
- (5) *Electric Service.* Every outlet and fixture shall be properly installed and shall be maintained in a good and safe working condition, and shall be connected and maintained in compliance with the Municipality's Electric Code.
- (6) *Smoke Detectors.* Smoke Detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each additional story of the Dwelling Unit, including Basements and Cellars excluding crawl spaces and unfinished attics.
- (7) *Carbon Monoxide Detectors.* The owner of a dwelling shall install a functional carbon monoxide detector in the basement of the dwelling and on each floor level except the attic, garage, or storage area of each dwelling unit. This paragraph does not apply to the owner of a dwelling that has no attached garage, no fireplace, and no fuel-burning appliance.
- (8) *Extermination of Vermin.* Every Occupant of a Dwelling containing a single Dwelling Unit shall be responsible for the Extermination of any Vermin in or on the premises; and every Occupant of a Dwelling Unit in a Dwelling containing more than one Dwelling Unit shall be responsible for such Extermination within the unit occupied by them whenever their Dwelling Unit is the only one infested. Notwithstanding such provisions, whenever an infestation is caused by the failure of the Owner to maintain a Dwelling in a reasonably rodent-proof or insect-proof condition, Extermination shall be the responsibility of the Owner. Extermination of any infestation in an unoccupied Dwelling Unit shall be the responsibility of the Owner even though the condition may have been caused by a previous Occupant. All Extermination services shall be performed by a licensed

exterminator. Effective Extermination shall continue until all Vermin are eliminated. The responsible person shall submit completed Extermination reports from the licensed exterminator to the appropriate Code Official upon request.

- (9) *Hazardous Conditions.* Every Dwelling Unit shall be structurally sound and shall be free of conditions that constitute a Human Health Hazard, an Immediate Human Health Hazard to the health and safety of the Occupant(s) or which create an unreasonable risk of personal injury resulting from any reasonably foreseeable use of the Dwelling.
- (10) *Discontinuance of Service.* No Owner or Occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed or shut off from, or discontinued for, any occupied Dwelling which is let or occupied by such Person, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during a temporary emergency when discontinuance of service is approved by a Code Official.
- (e) *Enforcement.* Upon request of an Owner or Occupant, or upon receipt of a credible complaint, a Code Official shall inspect or cause to be inspected the Dwelling, Dwelling Unit or Exterior Premises which is the subject of the complaint or upon which there exists evidence of a violation of this Section. Such inspection shall be for the purpose of determining whether or not the condition of the Dwelling or Dwelling Unit complies with the standards set forth in this Section.
- (f) *Access to Property.* After presenting proper identification a Code Official shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Section and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stats., as amended from time-to-time.
- (g) *Declaration of Dwelling as Human Health Hazard.* Notwithstanding any other provisions of this Section, if a Code Official determines that any Dwelling or Dwelling Unit is a Human Health Hazard or Immediate Human Health Hazard, the Code Official shall placard such Dwelling and within 24 hours thereafter serve notice either, by registered mail, return receipt requested, or by personally served notice in the manner provided for in the State Statutes for service of process to the Occupant and Owner that the Dwelling is unfit for human habitation and that it shall be vacated within a reasonable time as ordered by the Code Official. A Dwelling may be declared a Human Health Hazard or Immediate Human Health Hazard for any of, but not limited to, the following reasons:
 - (1) A Dwelling is so damaged, decayed, dilapidated, dangerous, unsanitary, unsafe or Vermin-infested that it creates a hazard to the health or safety of the Occupants or the public.
 - (2) A Dwelling lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health and safety of the Occupants.

- (3) A Dwelling, because of its condition, has been implicated as the potential source of a severe poisoning by a toxic substance including but not limited to lead-bearing paint.
- (h) *Workmanship.* All repairs, maintenance work, alterations or installations which are required directly or indirectly by the enforcement of this Section shall be executed and installed in a Workmanlike manner.
- (i) *Notice of Violation and Orders for Corrective Actions.* Whenever a Code Official determines that there has been a violation of this Section, notice shall be given to the property Owner, and Occupant as appropriate. Such notice shall:
 - (1) Be in writing.
 - (2) Include a statement of the violation with reference to the applicable provision(s) of this Section.
 - (3) Include the correction(s) necessary to bring about compliance.
 - (4) Contain an order to correct said violation by a date certain.
- (j) *Service of Notice.* Each notice or order, other than as provided in Subsection (g), provided under this Section shall be deemed to be properly served if a copy thereof is:
 - (1) Personally served in the manner provided for in the State Statutes for service of process or,
 - (2) Sent by U.S. first class mail, postage prepaid, addressed to the last known address or,
 - (3) Posted in a conspicuous place on or about the main entrance to the structure located at the last known address, where there is a structure.
- (k) *Appeal.* Any Person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Health Officer or other Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be pursuant to the Administrative Review section of this Code or Chapter 68 of the Wisconsin Statutes.
- (l) *Noncompliance with Order.*
 - (1) *Citation.* A citation for any violation of this Section may be issued by the Police, Sheriff's Department or by an appropriate Code Official.
 - (2) *Abatement of Human Health Hazards/Emergency Action.* In extreme cases where a violation poses an Immediate Human Health Hazard as determined by the Health Officer or other implicated Code Official, the Health Officer or Code Official may immediately commence the actions authorized by this Chapter, or any other statutory or ordinance authority, to abate or removed the hazard.

- (m) *Penalties.* Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

Sec. 2-173 Lodging, recreation and food protection.

- (a) *Purpose and General Provisions.* The purpose of this Section is to preserve and promote the public health of the residents. The Health Department is granted agent status under Sections 97.41 and 463.16, Wis. Stats., and accordingly provides all licenses and inspections for retail food establishments, restaurants, public swimming pools, and water attractions, tattoo and body piercing establishments, recreational and educational camps, campgrounds, hotels, motels, tourist rooming houses, bed and breakfast establishments and food vending operations in accordance with the applicable Wisconsin Statutes and/or Administrative Code Chapter.
- (b) *Authority.* This Section is adopted pursuant to the authority granted by Chapters 251, 252, 254, and Sections 97.41 and 463.16 of the Wisconsin Statutes, as amended from time-to-time, which regulations are hereby adopted, and incorporated by reference as though fully set forth herein. The Health Officer, or his or her designee, shall have the power to enforce the regulations of this Section, including by the issuance of citations.
- (c) *Adoption of State Code; Applications, Permits, and Licenses Required.* Except as otherwise provided in this Section and pursuant to the authority granted by Wisconsin Statutes Chapters 251, 252, 254 and Sections 66.0417 and 97.41, the Village adopts Wisconsin Administrative Code Chapters ATCP 75, SPS 390, SPS 221, ATCP 76, ATCP 78, ATCP 79, DHS192, ATCP 72, ATCP 73, as amended from time-to-time, which are incorporated by reference as though fully set forth herein. All applications, permits and licenses required by such regulations are required by the Municipality and shall be processed in accordance with the applicable Statute or Code Section.
- (d) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:
- (1) *Body Piercer.* Means a person who performs body piercing on another person at that person's request.
 - (2) *Food Establishment.* An operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "Food Establishment" includes a "restaurant" as defined in Section 97.01, Wis. Stats.; a "retail food establishment" as defined in Section 97.30, Wis. Stats
 - (3) *Tattooist.* Means a person who tattoos another person at that person's request.
- (e) *Mobile Food Establishments.* A valid Food Establishment permit issued by the State of Wisconsin or any other competent Health Department for any mobile restaurant or mobile retail Food Establishment which chooses to operate within the jurisdiction of the Village/Town will be honored by the Village/Town. The mobile Food Establishment will be required to be inspected by the health department and to satisfy the relevant

provisions of Wisconsin Administrative Code Chapter DHS 196 and ATCP 75. In addition, the mobile food establishment shall pay an inspection fee for this inspection.

- (f) *Body Piercers and Tattooists.* All body piercers and tattooists shall annually complete a bloodborne pathogen training course that is approved by the Health Department. Any tattoo or body piercing establishment allowing a tattooist or body piercer to practice in the establishment without proof of bloodborne pathogen training will be assessed a fee. This fee shall be established by Board of Health as part of the annual budget process.
- (g) *Application; Permit.* Any license or permit required under this Section shall make application on a form provided by the Health Department. The Health Department shall determine the contents of the application and may use a form provided by the State. Applications for permits shall be submitted to the Health Department along with the appropriate fee. Applications will be reviewed for compliance with this Section. Permits and licenses issued hereunder shall be conspicuously displayed on the premises of the establishment.
- (h) *Inspection by Department.* Authorized employees of the Department, upon presenting proper identification, shall have the authority to perform inspections prior to issuance of any permit or license and from time-to-time of any establishment for compliance with this Code, including the state laws incorporated in this Code by reference.
- (i) *Fees.* All fees associated with the operation of any establishment governed by this Section shall be established as part of the annual budget process or by resolution of the Board of Health.
- (j) *Penalties.* Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.
- (k) *Appeal.* Any person aggrieved by any temporary order issued by the Health Officer pursuant to Sec. 66.0417(2)(a), Wis. Stats., shall be granted a hearing before the Board of Health in accordance with the provisions of such Section. Appeal from any order, notice or determination made by the Health Officer other than one controlled by Sec. 66.0417 shall be to the Board of Health pursuant to the applicable ordinance or Chapter 68 of the Wisconsin Statutes in the absence of an administrative review ordinance. The Board of Health may affirm, set aside, or modify the subject order by majority vote. The Board of Health's decision shall be final but may be appealed to the Racine County Circuit Court.

Sec. 2-174 Rabies control.

- (a) *Purpose and General Provisions.* The purpose of this Section is to preserve and promote the public health of the residents. Pursuant to Section 254.51, Wis. Stats., the Health Department shall establish measures for the prevention, surveillance and control of human disease that is associated with animal-borne disease transmission.
- (b) *Authority.* This Section is adopted pursuant to the authority granted by Chapters 250, 251, and 254 of the Wisconsin Statutes. The law enforcement officer, Humane Officer,

Health Officer or their designees shall have the power to enforce the regulations of this Section, including by the issuance of one or more citations, as warranted.

- (c) *Adoption of Wisconsin State Statute.* In addition to the provisions of this Section and pursuant to the authority granted by Chapters 250, 251 and 254 of the Wisconsin Statutes, the Municipality adopts Section 95.21, Wis. Stats., which is incorporated by reference as though set forth herein. To the extent any provision conflicts with another provision in this Section, the more restrictive provision applies.
- (d) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:
 - (1) *Bite.* To seize with teeth or jaws, so as to enter, wound, or pierce the skin.
 - (2) *Cat.* Any member of the species felis catus (the domestic cat).
 - (3) *Code Officer.* The Municipality's law enforcement officer, Humane Officer, Health Officer or their designees.
 - (4) *Dog.* Any member of the species canis familiaris (the domestic dog).
 - (5) *Ferret.* Any member of the species mustela putorius (the domestic ferret).
- (e) *Rabies Vaccination Required for Dogs.* The owner of a Dog shall have the animal vaccinated against rabies. An owner who fails to obtain a rabies vaccination for a Dog shall be subject to a forfeiture of not less than \$50 and not more than \$100, plus the costs of prosecution.
- (f) *Duty to Report Bite.* Any person having knowledge or reason to believe that any Dog, Cat or Ferret has bitten a person, shall immediately report, so far as is known, the name and address of the owner of the animal and circumstances of such Bite. Such report shall be made to the Village/Town Police Department or Sheriff's Department.
- (g) *Quarantine.* Any Dog, Cat or Ferret within the Municipality which is believed to have bitten a person, to have been infected with rabies, or to have been in contact with a rabid animal shall be subject to the quarantine requirements and procedures set forth in Sec. 95.21, Wis. Stats. If the Code Official, Chief of Police, the Health Officer, or the Humane Officer determines that a Dog, Cat, Ferret or other domestically-owned animal found in the Municipality has rabies, the Health Officer may order a district quarantine, as provided by § 95.21(3).
- (h) *Noncompliance with Quarantine Order.* If after a Dog, Cat or Ferret Bites a person, the animal's owner fails to quarantine the animal and/or fails to have the animal examined by a licensed veterinarian, the animal may be seized by the Code Official, Health Officer, Police Officer, Deputy Sheriff, Humane Officer or their designees and held at a designated facility until the quarantine time expires. The owner or custodian of the animal shall pay all applicable fees associated with the quarantine, veterinarian's examinations, vaccination and license prior to releasing the animal from the quarantine facility.

- (i) *Appeal.* Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Health Officer or other Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be to the Village/Town Board pursuant to the applicable ordinance or Chapter 68 of the Wisconsin Statutes in the absence of an administrative review ordinance.
- (j) *Penalties.* Except as otherwise provided herein, any person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

Secs. 2-175—2-200. Reserved.

Division 3. Plan Commission

State Law reference— Regional planning program, Wis. Stat. § 60.82.

Sec. 2-201. Establishment.

There is hereby established a town plan commission in accordance with Wis. Stat. §§ 60.10(2)(c), 61.35 and Wis. Stat. § 236.02(13). (Code 1982, § 1.16(1))

Sec. 2-202. Membership.

- (a) *Composition generally.* The town plan commission shall consist of seven members who shall be paid such amount as is determined by the town board from time to time. One member of the plan commission shall be a town supervisor and one member shall be the town chairperson. The other members of the plan commission shall be citizen members of recognized experience and qualifications appointed by the town board.
- (b) *Presiding officer.* The presiding officer of the plan commission shall be the town chairperson.
- (c) *Secretary.* The secretary of the plan commission shall be appointed by the town chairperson.
- (d) *Official oaths.* Official oaths shall be taken by all members of the plan commission in accordance with Wis. Stat. § 19.01 within ten days of receiving notice of their appointments.
- (e) *Terms of citizen members.* Terms for the citizen members of the plan commission shall commence on the first week of May and be for three-year periods, except the original terms, each of which shall be for three years or less so as to stagger the terms. (Code 1982, § 1.16(2))

Sec. 2-203. Organization.

The town plan commission shall organize and adopt rules for its own government in accordance with the provisions of this section.

- (1) Meetings shall be held monthly and at the call of the town chairperson or a majority of the full plan commission and shall be open to the public.
- (2) Quorum shall be a majority of the members, but all actions, except a motion to adjourn, shall require approval of a majority of the full plan commission.
- (3) Standing and special committees of the plan commission may be appointed by the town chairperson.
- (4) A written record shall be kept showing all actions taken, resolutions, findings, determinations, transactions and recommendations made, and a copy shall be filed with the clerk-treasurer as a public record. (Code 1982, § 1.16(3))

Sec. 2-204. Powers.

The town plan commission shall have such powers as may be necessary to enable it to perform its functions and duties and promote land use planning in the town. Such powers shall include the following:

- (1) Employ experts and a staff and to pay for their services, supplies, equipment and such other expenses as may be necessary and proper, not to exceed the appropriations and regulations made by the town board.
- (2) Make reports and recommendations relating to the plan and development of the town to public officers, agencies, utilities and other organizations and citizens.
- (3) Recommend public improvement programs and financing thereof to the town board or town chairperson.
- (4) Request available information from any public officer to be furnished within a reasonable time.
- (5) The plan commission, its members and employees, may enter upon any land in the performance of its functions, make examination and surveys, and place and maintain necessary monuments and marks thereon. If otherwise required by law, the plan commission may obtain warrants for such purpose.
(Code 1982, § 1.16(4))

Sec. 2-205. Duties.

The town plan commission shall have the following functions and duties:

- (1) Recommend a master plan for the physical development of the town to the town board.

- (2) Prepare and recommend land division regulations to the town board in accordance with Wis. Stat. § 236.45.
- (3) Recommend any changes to the master plan they deem necessary or desirable and to recommend any changes or amendments to the town board that they deem necessary or desirable concerning the zoning, land division and fire prevention ordinances; to cooperate with municipal or regional planning commissions and other land use planning agencies or groups to further the town planning program and to ensure harmonious and integrated planning for the town and adjoining areas.
(Code 1982, § 1.16(5))

Sec. 2-206. Referrals.

The town board or other public body or officer of the town having final authority thereon shall refer to the town plan commission, for its consideration and report before final action is taken, any matters required by law to be referred to such an agency. (Code 1982, § 1.16(6))

Sec. 2-207. Additional powers and duties.

The town plan commission shall have all additional powers and duties granted or assigned by the town board or by town ordinances. All the powers and duties granted or assigned by state statute to the town plan commission and by any amendments thereto are granted and assigned to the plan commission and such statutes are adopted by reference. (Code 1982, § 1.16(7))

Secs. 2-208—2-230. Reserved.

Division 4. Board Of Review

State Law reference— Board of review, Wis. Stat. § 70.46 et seq.

Sec. 2-231. Membership.

The board of review of the town shall consist of the three members of the town board, a resident of the town to be appointed by the town board for a term of three years, and one or more alternate members who are residents of the town. Alternate members shall serve on the board of review when standing members are removed from individual cases. Alternate members of the board of review are to be appointed by the town board, and shall serve for a term of three years. (Code 1982, § 1.17(1))

Sec. 2-232. Duties.

The board of review shall have the duties and powers prescribed by Wis. Stat. § 70.47. (Code 1982, § 1.17(2))

Sec. 2-233. Meetings.

The hours of the board of review shall be from 5:00 p.m. to 7:00 p.m. on the second Monday of May each year, and may be adjourned from time to time as the board of review so designates. (Code 1982, § 1.17(3))

Sec. 2-234. Confidentiality.

Whenever the assessor, in the performance of the assessor's duties, requests or obtains income and expense information pursuant to Wis. Stat. § 70.47(7)(af), such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis, except, however, that the information may be revealed to and used by persons in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the assessor in performance of official duties of the assessor's office and use by the board of review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the assessor under Wis. Stat. § 70.47(7)(af), unless a court determines that it is inaccurate, is, per Wis. Stat. § 70.47(7)(af), not subject to the right of inspection and copying under Wis. Stat. § 19.35(1). (Code 1982, § 1.17(4))

Sec. 2-235. Compensation.

The members of the board of review, except members who are full-time employees or officers of the town, shall receive such compensation as shall be fixed by resolution of the town board. (Code 1982, § 1.17(5))

Sec. 2-236. Procedures and criteria for waiving board of review hearing requests.

(a) *Procedure.* Before the Board of Review (hereinafter "BOR") can consider a request from a taxpayer or assessor, or at its own discretion, to waive the hearing of an objection, the taxpayer must first complete and file with the clerk of the BOR the following documents:

- (1) A fully completed and timely Notice of Intent to appear at BOR, and
- (2) A fully completed and timely Objection Form for Real Property Assessment (Form PA-115A).

If the owner fails to file the aforementioned documents as required, no hearing will be scheduled on the objection.

If the owner files the aforementioned documents as required and a request from a taxpayer or assessor, or at its own discretion, is made to waive the hearing of an objection, the BOR shall use the following criteria when making its decision.

(b) *Criteria.* The BOR may consider any or all of the following factors when deciding whether to waive the hearing:

- (1) The benefits or detriments of the BOR process.
- (2) The benefits or detriments of having a record for court review.
- (3) Avoidance of unruly, lengthy, burdensome appeals.
- (4) Ability to cross-examine the person providing the testimony.
- (5) Any other factors that the BOR deems pertinent to deciding whether to waive the hearing.

Secs. 2-237 – 2-260. Reserved.

Division 5. Water Utility Commission

Cross reference— Utilities, ch. 54.

State Law reference— Powers of the water utility commission, Wis. Stat. § 66.085.

Sec. 2-261. Composition.

The water utility commission for Water Utility District No. 1 of the town shall consist of five commissioners.

(Code 1982, § 1.18(1))

Sec. 2-262. Powers and duties.

The water utility commissioners shall take entire charge and management of such utility and shall have such powers as are enumerated in Wis. Stat. § 66.0805. (Code 1982, § 1.18(2))

Sec. 2-263. Supervision of water utility operation.

The water utility commissioners shall supervise the operation of the water utility under the general control and supervision of the town board. (Code 1982, § 1.18(3))

Sec. 2-264. Terms of office; expiration.

(a) The members of the town board shall serve as members of the water utility commission during their respective terms of office.

(b) Terms on the water utility commission shall expire on October 1 of the last year of a commissioner's term on the town board.

(Code 1982, § 1.18(4), (5))

Sec. 2-265. Compensation.

Water utility commissioners shall be paid such compensation as shall be provided by the town board. However, members of the town board shall not receive any additional compensation over and above that paid to them as members of the town board for serving as members of the water utility commission.

(Code 1982, § 1.18(6))

Sec. 2-266. Election of officers; records; expenditures and powers.

- (a) *Election of officers.* The water utility commissioners shall choose from among their number a president and secretary and shall make rules for their own proceeds and for the government of Water Utility District No. 1 of the town.
- (b) *Records.* The water utility commissioners shall keep books and accounts which shall be open to the public.
- (c) *Expenditures; powers.* All expenditures of such water utility district shall be audited by the water utility commission and the water utility commission shall have general powers in the construction, extension, improvement and operation of the utility, subject to the general control and supervision of the town board.

(Code 1982, § 1.18(7))

Secs. 2-267—2-300. Reserved.

Article V. Elections

Cross reference— Any ordinance calling an election saved from repeal, § 1-9(17).

State Law reference— Elections, Wis. Stat. ch. 7.

Division 1. Generally

Sec. 2-301. Registry of electors.

- (a) The clerk-treasurer shall prepare, continue and revise a registry of electors and shall have control of such registry for the town under Wis. Stat. §§ 6.26—6.57.
- (b) The clerk-treasurer shall procure the necessary registration affidavit forms as set forth in Wis. Stat. § 6.33.

(Code 1982, § 1.21)

Sec. 2-302. Voting.

All the provisions of Wis. Stat. ch. 6 as such provisions pertain to any and all town elections or any elections held within the town are hereby incorporated by reference. The clerk-treasurer

upon notifying each inspector and clerk as provided in section 2-324, shall instruct each officer as to his duties and responsibilities.

(Code 1982, § 1.20(2))

Sec. 2-303. Opening and closing of polls.

The polls shall be opened at 7:00 a.m. and be closed at 8:00 p.m. except that the town board may extend the time during which polls shall remain open to an hour not earlier than 6:00 a.m. Notice of any such change shall be given at least 30 days before the election by publication in a newspaper, or, if there be none, by posting such notice in three public places in the town.

(Code 1982, § 1.20(a))

State law reference— Poll hours, Wis. Stat. § 6.78(2)(a).

Secs. 2-304—2-320. Reserved.

Division 2. Election Officials

State Law reference— Election officials, Wis. Stat. § 7.30.

Sec. 2-321. Election officials; appointment; duties and powers.

- (a) Election officials for each polling place shall be appointed pursuant to Wis. Stat. §§ 7.30, 7.31 and 7.32. Such election officials shall have all of the powers and perform all of the duties prescribed for such officers by the statutes.
 - (b) The town clerk is authorized to select alternate officials or two sets of officials to work at different times on election day.
 - (c) The town clerk may reduce the number of election officials for any given election to not less than three.
 - (d) Tabulators, if required, may be appointed by the town clerk.
- (Code 1982, § 1.20(1); Ord. No. 2012-02, § 1, 2-27-2012)

State law reference— Appointment of election officials, Wis. Stat. §§ 7.30, 7.31, 7.32.

Sec. 2-322. Qualifications.

- (a) Each inspector shall be a qualified elector of the town.
- (b) All election officials shall be able to read and write the English language, be capable, be of good understanding, and may not be a candidate for any office to be voted for at an election at which they serve.

(Code 1982, § 1.20(1))

State law reference— Qualifications, Wis. Stat. § 7.30(2).

Sec. 2-323. Nominations.

Under Wis. Stat. § 7.30, the town chairperson shall nominate to the town board at the first regular meeting in December of each year in which a general election is to be held, three persons for inspectors, two for clerks, two for ballot clerks and at least one alternate for each position. The town board shall immediately approve or disapprove the nominees and if disapproved, the town chairperson shall submit another name.

(Code 1982, § 1.20(1)(a))

Sec. 2-324. Notice; compensation; tenure.

(a) *Notice of appointment and confirmation.* The clerk-treasurer shall notify the election inspectors and clerks of their appointment and the confirmation thereof by the town board informing each that they shall file an oath of office within ten days after the mailing of such notice.

(b) *Compensation and tenure.* The persons so qualified as election inspectors and clerks shall receive as compensation such amounts as set from time to time by the town board, and shall hold office for two years or until their successors are appointed and qualified, and shall act as such officers at every primary, general, municipal and special election following their appointment held within their districts during such term.

(Code 1982, § 1.20(1)(b))

Sec. 2-325. Vacancies and duties.

Vacancies in the offices of election inspectors or clerks as provided in this division shall be filled in the manner provided in Wis. Stat. § 7.30. Duties of such election officials shall be as provided in such section together with such additional duties as prescribed by the town board. (Code 1982, § 1.20(1)(c))

Secs. 2-326—2-350. Reserved.

Article VI. Public Records

State Law reference— Public records, Wis. Stat. § 19.21 et seq.

Sec. 2-351. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authority means any of the following town entities having custody of a town record: an office, elected officer, 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.

Custodian means the officer, department head, division head, or employee of the town designated under section 2-353 or otherwise responsible by law to keep and preserve any town records or file, deposit or keep such records in his 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.

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. The term "record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts and optical disks. Record does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his 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.

(Code 1982, § 1.30)

Cross reference— Definitions generally, § 1-2.

State law reference— Definitions, Wis. Stat. §§ 19.32, 19.33.

Sec. 2-352. Duty to maintain records.

- (a) Except as provided under section 2-359, each officer and employee of the town shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of an officer or employee or his deputies, or to the possession or control of which he 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 successor all records then in his custody and the successor shall receipt therefor to the officer or employee, who shall file such receipt with the clerk-treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk-treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(Code 1982, § 1.31)

State law reference— Custody and delivery of public records, Wis. Stat. § 19.21.

Sec. 2-353. Legal custodian.

- (a) Each elected officer is the legal custodian of his records and the records of his office, but may designate a staff employee to act as legal custodian.

- (b) Unless otherwise prohibited by law, the clerk-treasurer or the clerk-treasurer's designee shall act as legal custodian for the town board and any committees, commissions, boards or other authorities created by ordinance or resolution of the board.
- (c) For every authority not specified in subsections (a) or (b) of this section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.
- (e) The legal custodian shall have full legal power to render decisions and carry out the duties of an authority under Wis. Stat. § 19.23, and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

(Code 1982, § 1.32)

State law reference— Custody and delivery of records, legal custodian, Wis. Stat. § 19.23.

Sec. 2-354. Public access to records.

- (a) Except as provided in section 2-358, any person has a right to inspect, make or receive a copy of any record as provided in Wis. Stat. § 19.35(1).
- (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 48 hours' advance notice of intent to inspect or copy.
- (d) Requester inspection and copying facilities shall be comparable to those available to town employees.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:
 - (1) The cost of photocopying shall be as established from time to time by the town board, but shall not exceed actual, necessary and direct costs 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 audiotapes or videotapes, 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 \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00. If the requester is a prisoner, as defined in Wis. Stat. § 301.01(2), or is a person confined in a federal correctional institution located in this state, or he has failed to pay any fee that was imposed by the authority for a request made previously by that requester, the authority may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

(Code 1982, § 1.33(1)—(5), (6)(a)—(f))

State law reference— Public access to town records, Wis. Stat. § 19.35(3).

Sec. 2-355. Access to records by elected and appointed officers; reduction or waiver of charges.

- (a) Elected and appointed officers of the town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (b) An authority may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.

(Code 1982, § 1.33(6)(g), (h))

Sec. 2-356. Notice of method for obtaining information and records.

Pursuant to Wis. Stat. § 19.34 and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This section does not apply to members of the town board. (Code 1982, § 1.33(7))

State law reference— Procedure, Wis. Stat. § 19.34.

Sec. 2-357. Access procedures.

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stat. § 19.37. Except as

provided in this section, 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 2-354(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 request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in section 2-358. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stat. § 19.37(1) or upon application to the attorney general or a district attorney.

(Code 1982, § 1.34)

State law reference— Access to records, Wis. Stat. § 19.35.

Sec. 2-358. Limitations on right to access.

- (a) As provided by Wis. Stat. § 19.36, the following records are exempt from inspection under this article:
 - (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) The town shall make available for inspection and copying under Wis. Stat. § 19.35(1) any record produced or collected under a contract entered into by the town with a person other than an authority to the same extent as if the record were maintained by the town. This subsection does not apply to the inspection or copying of a record under Wis. Stat. § 19.35(1)(am).
 - (4) 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 as provided by law.
 - (5) A record or any portion of a record containing information qualifying as a common law trade secret.

- (6) Records containing plans or specifications for any state-owned or state-leased building, structure or facility or any proposed state-owned or state-leased building, structure or facility are not subject to the right of inspection or copying under except as the department of administration otherwise provides by rule.
- (b) As provided by Wis. Stat. § 43.30, public library circulation records are exempt from inspection under this article.
- (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 determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
 - (1) Records obtained under official pledges of confidentiality, which were necessary and given in order to obtain the information contained in them.
 - (2) Records of current deliberations after a quasi-judicial hearing.
 - (3) 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) Records concerning current strategy for crime detection or prevention.
 - (5) 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) 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) 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, agents or employees is or is likely to become involved, or communications which are privileged under Wis. Stat. § 905.03.
- (d) If a record contains information that may be made public and information that may not be made public, the legal 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 legal 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 legal 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.

(Code 1982, § 1.35)

State law reference— Exempt records, Wis. Stat. §§ 19.35, 19.36.

Sec. 2-359. Destruction of obsolete public records.

- (a) *Financial records.* The clerk-treasurer may destroy the following nonutility records of which he is the legal custodian and which are considered obsolete, after completion of an audit by state auditors or an auditor licensed under Wis. Stat. ch. 442, but not less than seven years after payment or receipt of any sum involved in the particular transaction unless a shorter period has been fixed or will in the future be fixed by the state public records board pursuant to Wis. Stat. § 16.61(3)(e), and then after such shorter period:
- (1) Bank statements, deposit books, slips and stubs.
 - (2) Bonds and coupons after maturity.
 - (3) Cancelled checks, duplicates and check stubs.
 - (4) License and permit applications, stubs and duplicates.
 - (5) Official bonds.
 - (6) Payrolls and other time and employment records of personnel included under the state retirement plan.
 - (7) Receipt forms.
 - (8) Special assessment records.
 - (9) Vouchers, requisitions, purchase orders and all supporting documents pertaining thereto.
 - (10) Vouchers and supporting documents pertaining to charges not included in plant accounts of municipal utilities and the sewer department.
 - (11) Other municipal utility and sewer department records, with the written approval of the state public service commission.
- (b) *Utility records.* The clerk-treasurer may destroy the following records of any municipal utility, subject to the regulations by the state public service commission, and of the sewer department of the town, of which he is the legal custodian and which are considered obsolete, after completion of an audit by state auditors or by an auditor licensed under Wis. Stat. ch. 442, but not less than two years after payment or receipt of the sum involved in the applicable transaction.
- (1) Water stubs.
 - (2) Sewer rental charge stubs.
 - (3) Receipts of current billings.

- (4) Customer's ledgers.
- (c) *Other records.* The clerk-treasurer may destroy the following records of which he is the legal custodian and which are considered obsolete, but not less than seven years after the record was effective:
 - (1) Assessment rolls and related records.
 - (2) Contracts and papers relating thereto.
 - (3) Correspondence and communications.
 - (4) Financial reports other than annual financial reports.
 - (5) Insurance policies.
 - (6) Oaths of office.
 - (7) Reports of boards, commissions, committees and officers duplicated in the town board minutes.
 - (8) Resolutions and petitions.
 - (9) Voter cards.
- (d) *Interpretation.* This section shall not be construed to authorize the destruction of any public record after a lesser period than that prescribed by statute or state administrative regulation.
- (e) *Notice required.* Prior to the destruction of any public record described above, at least 60 days' notice shall be given the state historical society pursuant to Wis. Stat. § 19.21(5)(d).
- (f) *Destruction of tapes.* Notwithstanding any other provision of this section, taped recordings of a meeting of a governmental body, as defined in Wis. Stat. § 19.82(1), made for the purpose of making minutes of the meeting, may be destroyed in accord with Wis. Stat. § 19.21(7).

(Code 1982, § 1.36)

State law reference— Destruction of records, Wis. Stat. § 19.35(5).

Secs. 2-360—2-390. Reserved.

Article VII. Administrative Review Procedure

State Law reference— Municipal administrative procedure, Wis. Stat. ch. 68.

Sec. 2-391. Review of administrative determinations.

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

(Code 1982, § 24.01)

Sec. 2-392. Determinations reviewable.

The following determinations are reviewable under this article:

- (1) 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.
- (2) The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in section 2-393(4).
- (3) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
- (4) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.
- (5) The suspension or removal of a town officer or employee except as provided in section 2-393(2), (7).

(Code 1982, § 24.02)

Sec. 2-393. Determinations not subject to review.

The following determinations are not reviewable under this article:

- (1) A legislative enactment is an ordinance, resolution or adopted motion of the town board.
- (2) Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.
- (3) The denial of a tort or contract claim for money required to be filed with the town under Wis. Stat. § 60.44.
- (4) The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under Wis. Stat. ch. 125.
- (5) Judgments and orders of a court.
- (6) Determinations made during town labor negotiations.

- (7) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.
 - (8) Any action or determination which does not involve the constitutionally protected right of a specific person to due process in connection with the action or determination.
- (Code 1982, § 24.03)

Sec. 2-394. Municipal authority defined.

The term "municipal authority" includes the town board, commission, committee, agency, officer, employee or agent of the town making a determination under section 2-391, and every person, committee or agency of the town authorized to make an independent review under section 2-398(b).

(Code 1982, § 24.04)

Cross reference— Definitions generally, § 1-2.

Sec. 2-395. Persons aggrieved.

A person aggrieved includes any individual, partnership, corporation, association, public or private organization, and any officer, department, board, commission or agency of the town, whose rights, duties or privileges is 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 article 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 article initiated by another.

(Code 1982, § 24.05)

Sec. 2-396. Reducing determination to writing.

If a determination subject to this article 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 days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, shall advise that such review may be taken within 30 days and shall name the office or person to whom a request for review shall be addressed.

(Code 1982, § 24.06)

Sec. 2-397. 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 30 days of notice to such person of 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.
(Code 1982, § 24.07)

Sec. 2-398. Review of determination.

- (a) *Initial determination.* If a request for review is made under section 2-397, 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.
- (c) *When to make review.* The municipal authority shall review the initial determination within 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 in 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 on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, shall advise that the appeal may be taken within 30 days and shall name the office or person with whom notice of appeal shall be filed.

(Code 1982, § 24.08)

Sec. 2-399. Administrative appeal.

- (a) *From initial determination or decision on review.*
 - (1) If the person aggrieved had a hearing substantially in compliance with section 2-400 when the initial determination was made; he may elect to follow sections 2-396 through 2-398 but is not entitled to a further hearing under section 2-400 unless granted by the municipal authority. The aggrieved person may, however, seek judicial review under section 2-402.
 - (2) If the person aggrieved did not have a hearing substantially in compliance with section 2-400 when the initial determination was made; he shall follow sections 2-396 through 2-398 and may appeal under this section from the decision made under section 2-398.
- (b) *Time within which appeal may be taken under this section.* Appeal from a decision on review under 2-398 may be taken within 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 clerk-treasurer a written notice of appeal.
(Code 1982, § 24.09)

Sec. 2-400. Hearing on administrative appeal.

- (a) *Time of hearing.* The town shall provide the appellant a hearing on an appeal under section 2-399 within 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 days before such hearing.
- (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. The person conducting the hearing shall swear such witnesses. The town 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 and who may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the town 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 the purpose of making a record of the hearing shall take notes of the testimony and shall mark 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.

(Code 1982, § 24.10)

Sec. 2-401. Final determination.

- (a) Within 20 days of completion of the hearing conducted under section 2-400 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 2-400, or a decision on review under section 2-398 following such hearing, shall be a final determination, judicial review of which may be obtained under section 2-402.

(Code 1982, § 24.11)

Sec. 2-402. Judicial review.

- (a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 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 transcript at his expense. If the person seeking review establishes indigency 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.

(Code 1982, § 24.12)

Sec. 2-403. Legislative review.

- (a) Seeking review pursuant to this article 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 2-402.
- (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 2-400.

(Code 1982, § 24.13)

Secs. 2-404—2-430. Reserved.

Article VIII. Municipal Court

Sec. 2-431. Created.

In accordance with Wis. Stat. § 755.01, there is created and established a joint municipal court to be designated as the Municipal Court for the Town of Dover and the Town of Yorkville. The court shall have two branches, Branch 1-Dover and Branch 2-Yorkville. The court shall be presided over by an elected municipal judge, who shall serve for a four-year term, commencing May 1 of each odd-numbered year. The judge for the Town of Dover's existing municipal court shall serve as the judge for the joint court until the end of his current term of office. Thereafter, the electors of both municipalities shall be eligible to vote for the judge of the joint municipal court.

(Ord. No. 2004-03, § 1(1.19(1)), 9-27-2004; Ord. No. 2010-01, § 1, 12-27-2010)

Sec. 2-432. Maintenance and operation.

The municipal judge shall conduct court sessions in each branch's respective town hall at such times, as he shall determine, in consultation with the town clerk as to the availability of the town hall. Court sessions shall be held on the same day of the same week on a monthly basis, and at such other times that the municipal judge may designate. Except as otherwise provided by law, the procedure in municipal court shall be as set forth in Wis. Stat. ch. 800. (Ord. No. 2004-03, § 1(1.19(2)), 9-27-2004)

Sec. 2-433. Expenses.

The towns of Dover and Yorkville shall pay the reasonable expenses of the municipal court, as provided by intermunicipal agreement, and shall separately provide each branch with such support personnel as the town board deems necessary for the proper functioning of the court and each branch. (Ord. No. 2004-03, § 1(1.19(3)), 9-27-2004)

Sec. 2-434. Jurisdiction.

- (a) *Generally.* The municipal court shall have jurisdiction as provided in Wis. Stat. § 755.045 and Wis. Stat. § 755.05, and any amendments thereto.
- (b) *Juveniles.* The provisions of Wis. Stat. §§ 48.19, 48.20, and Wis. Stat. §§ 938.343, 938.344 and 938.355, as incorporated in this article shall govern the operation of the municipal court and case disposition as such sections relate to juveniles who are found to be in violation of any of the town ordinances. (Ord. No. 2004-03, § 1(1.19(4), (5)), 9-27-2004)

Sec. 2-435. Contempt.

- (a) *Powers.* A municipal judge may punish for contempt, which is defined as:
 - (1) Misconduct in the presence of the court, which interferes with a court proceeding or with the administration of justice, or which impairs the respect due the court;
 - (2) Disobedience, resistance or obstruction of the authority, process or order of a court;
 - (3) Refusal as a witness to appear, be sworn or answer a question; or
 - (4) Refusal to produce a record, document or other object.
- (b) *Procedure.* The municipal judge may hold a person in contempt following the procedure set forth in Wis. Stat. § 785.03.

(Ord. No. 2004-03, § 1(1.19(6), (7)), 9-27-2004)

Sec. 2-436. Penalties.

A municipal judge may impose forfeiture for contempt under section 2-435(b) in an amount not to exceed \$50.00 or, upon nonpayment of the forfeiture and surcharges imposed under Wis. Stat. ch. 814, a jail sentence not to exceed seven days.