

## 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. Village Board**

**State Law reference—** Village board, Wis. Stat. § 61.32 et seq.

### **Division 1. Generally**

#### **Sec. 2-31. Rules of procedure.**

- (a) Order and decorum, deliberations of the village board and decisions on all questions of order and conduct in the proceedings of village 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. Except where a period of public comment is permitted, no person other than a member shall address the village 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 No motion shall be withdrawn or amended without the consent of the person making the motion and the person seconding it.

#### **Sec. 2-32. Ordinances and resolutions.**

An ordinance and/or resolution shall be introduced in writing and may, at the discretion of the village board, be acted upon at the same meeting it is introduced. Unless requested by a trustee before a final vote is taken, no ordinance need be read in full.

#### **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 village 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 village 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 village board shall be held on the second and fourth Monday of each calendar month at 6:00 p.m., although the village board may adjust the frequency or scheduling of its meetings as it periodically determines to be appropriate, provided that proper notice of each meeting is given. Regular meetings falling on a legal holiday may be rescheduled, if at all, for such date and time as is determined by the village board.

### **Sec. 2-53. Special meetings.**

Special meetings of the village board may be called by the village president or by any two village trustees by filing a written request with the administrator/clerk at least 24 hours prior to the time specified for such meeting. The administrator/clerk shall immediately notify each trustee of the time and purpose of such meeting. The notice shall be delivered to each trustee personally or left at his/her usual place of abode. The administrator/clerk 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 scheduled without notice when all members of the village board are present or consent in writing to the holding of such special meeting. Unless all trustees 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 village board, including special and adjourned meetings, shall be held in the village board room unless otherwise designated by the village board. Notice of a change of place shall be posted at least 24 hours prior to the meeting. (Code 1982, § 2.02(4))

**Sec. 2-56. Quorum.**

A quorum is necessary for the transaction of any village board business. Three village board members shall constitute a quorum. (Code 1982, § 2.02(5))

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

All meetings of the village 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 village 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) Consent agenda.
- (4) Items removed from consent agenda.
- (5) Business, including both unfinished business from previous meetings and new business, including introduction of ordinances and resolutions.
- (6) Committee reports; reports of village officers; communications and other business.
- (7) Public comment.
- (8) Adjournment.

**Sec. 2-59. Presiding officer.**

- (a) *Control of meeting.* The village president shall preserve order and conduct the proceedings of all meetings and hearings, whether on petition or regular or special meetings. A member of the village 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 village president.* If the village president is absent at any meeting, the administrator/clerk shall call the meeting to order and preside until the village board selects a trustee to preside for that meeting. The administrator/clerk shall not vote on any issue before the village board.
- (c) *Presiding officer to vote.* The presiding officer shall vote as a trustee on all questions properly before the village board. The presiding officer may make motions or second motions before the village board. (Code 1982, § 2.04)

**Sec. 2-60. Consent agenda.**

- (a) *Posting.* While preparing the agenda for posting, the village clerk, subject to approval of the village president, shall determine which matters the clerk deems routine, procedural, informational, self-explanatory, and non-controversial, and that are not subject to a public hearing at the upcoming meeting of the village board. Those matters shall be listed under the heading of "Consent Agenda" on the agenda and posted as such.
- (b) *Board Action.* When the matters listed under the "Consent Agenda" come before the village board for action, no separate discussion or debate on matters on the consent agenda shall be permitted. A single motion, seconded and adopted by majority vote of the board shall be sufficient to approve, adopt, enact, or otherwise favorably resolve any matter listed on the consent agenda without separate discussion thereof. Action on all consent agenda items shall be separately recorded in the meeting minutes.
- (c) *Member Objection.* Any member of the village board may request removal of one or more matters from the consent agenda. No reason for the requested removal need be given by the board member. The request for removal shall be made at the time of the board meeting when the consent agenda item is reached or in writing to the clerk and president prior to the meeting. The matter shall be immediately removed from the consent agenda without discussion or debate. When an item has been removed from the consent agenda, it shall be acted upon individually, and subject to debate, with board action taken in accordance with established board procedures as contained in Section 2-58 of this chapter.

**Secs. 2-61. — 2-80. Reserved.**



### **Division 3. Committees**

#### **Sec. 2-81. Committee appointments.**

The village president shall designate and appoint all members of any standing and special committees established by the village 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 village 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 village 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 village 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. Composition of village board.**

- (a) Pursuant to Wis. Stat. § 61.20(4), the Village Board shall be composed of the Village President and four Village Trustees.
- (b) The special election for Village President and four Village Trustees shall be held on Tuesday, June 12, 2018. The election shall be “at-large” with all qualified candidates’ names placed on the ballot. The Village President candidate receiving the most votes shall be declared the winner. The top four vote-getters for the position of Village Trustee shall be declared the winners.
- (c) The elected Village President and Village Trustees shall commence their terms on June 25, 2018, and they shall hold their offices until the 2019 regular spring election and the qualification of their successors. Thereafter, the Village President shall be elected at the regular spring election in odd-numbered years. For purposes of the 2019 regular spring election and creating staggered terms of office for Trustees as required by state statute, Trustees will be divided into two classes. The top two vote-getters in the 2019 regular spring election shall be designated as one class of Trustees to serve a two-year term, while the next two highest vote-getters in the 2019

regular spring election shall be designated as the other class of Trustees to serve a one-year term until the 2020 regular spring election (two-year terms thereafter).

- (d) Terms shall commence on the third Tuesday of April in the year of election.

**Sec. 2-112. Appointed officers—Enumerated.**

The following officers of the village shall be appointed by the village president, subject to confirmation by the village board, biennially at the regular April village board meeting. The Village President 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—Village assessor.**

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

**Sec. 2-114. Appointed Officers: Village Administrator/Clerk, Village Treasurer, and Village Deputy Clerk-Treasurer.**

**(a) Village Administrator/Clerk.**

- (1) Office Created. In order to provide the Village of Yorkville with a more efficient, economical, coordinated, responsible, and responsive municipal government under a system of a part-time President and part-time Trustees and at a time when Village government is becoming increasingly complex, the position of an appointed Village Administrator/Clerk (“Administrator/Clerk”) is created.
- (2) Appointment, Removal. The Administrator/Clerk shall be appointed by a majority vote of the Village Board. As determined by written agreement, the

Administrator/Clerk shall serve at the pleasure of the Village Board or for a fixed term.

- (3) Duties and Responsibilities. The Administrator/Clerk shall serve as the Chief Administrative Officer of the Village of Yorkville, responsible to and under the general direction of the Village Board for proper administration of all activities of the Village. To this end, the Administrator/Clerk shall have the following powers and duties:
- (i) Carry out the duties as specified in §61.25 of the Wisconsin Statutes for a village clerk and any other related duties as specified by the Village Board of Trustees.
  - (ii) Carry out all actions and directives of the Village Board which require administrative implementation or where the President and/or Village Board have so directed.
  - (iii) Be responsible for and oversee and monitor the day-to-day administration and coordination of all departments, operations and business affairs of Village of Yorkville.
  - (iv) Develop budgeting procedures, prepare, and administer the annual operating and capital budgets in accordance with such guidelines as may be provided by the Village Board and in coordination with all Village officials.
  - (v) Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget.
  - (vi) Perform the duties of personnel director, managing other Village employees in the employment, training, and evaluation of all Village personnel; recommend salary and wage rates for employees.
  - (vii) Prepare reports and recommendations for the Village Board, advisory boards committees and commissions on operational or policy matters before them and on any other actions necessary to improve the overall health, safety, and welfare of the Village of Yorkville.
  - (viii) Establish and maintain procedures to facilitate communication between citizens and Village government to assure that complaints, grievances, recommendations, and other matters receive prompt attention and to assure that all such matters are expeditiously resolved.
  - (ix) Promote the economic well-being and growth of the Village through public and private sector cooperation, ensuring consistency with the Village's Comprehensive Plan.
  - (x) Keep informed concerning current Federal, State and County legislation and administrative rules affecting the Village and submit appropriate reports and recommendations thereon to the Board.

- (4) Compensation. The compensation of the Administrator/Clerk shall be fixed by the Village Board.
- (b) **Village Treasurer.** The position of an appointed Village Treasurer (“Treasurer”) is hereby created.
  - (1) Duties. The Treasurer shall have the duties as specified in §61.26 of the Wisconsin Statutes for a village treasurer and any other duties as specified by the Village Board of Trustees.
  - (2) Term. The Treasurer shall be appointed by a majority of the Village Board of Trustees and hold office for an indefinite term.
  - (3) Compensation. The compensation of the Treasurer shall be fixed by the Village Board.
- (c) **Village Deputy Clerk-Treasurer.** The position of an appointed Village Deputy Clerk-Treasurer (“Deputy Clerk-Treasurer”) is hereby created.
  - (1) The Administrator/Clerk, subject to approval by a majority of all the members of the Village Board, may in writing, appoint a Deputy Clerk-Treasurer who shall act under the Administrator/Clerk’s direction and who during the temporary absence or disability of the Administrator/Clerk or Treasurer or during a vacancy in such offices shall perform the duties of Clerk and/or Treasurer. The Deputy Clerk-Treasurer shall receive such compensation as the Village Board shall determine.

**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. § 61.21, 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, 61.21.

**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 (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. § 17.24. (Code 1982, § 1.05)

## **Sec. 2-118. Compensation.**

- (a) *Elected officers.* The compensation of all elected officers shall be determined prior to the earliest filing date for nomination papers for the elected position. The compensation remains in effect throughout the term (unless changed by the village board).
- (b) *Appointed officers.* The compensation of all appointed officers, including members of boards and commissions, shall be as determined by the village 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. § 61.193

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

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/her knowledge, has a direct financial interest in any transaction or official business with the village, which may tend to impair his independence of judgment or action in the performance of his/her official duties. However, it is not a conflict of interest for any public officer or employee to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value, such as a meal up to Ten Dollars (\$10.00) in value.

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

## **Sec. 2-120. Outside employment.**

No full-time officer or employee of the village shall engage in any other remunerative employment within or without the village. However, the village 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/her 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 village shall be as prescribed by the applicable state statute pertaining to village officers and by applicable village ordinances, and such additional duties and responsibilities as established from time to time by the village board. (Code 1982, § 1.09(1))

**Sec. 2-122. Duties – Village President.**

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

**Sec. 2-123. Nondiscrimination.**

- (a) The village and its representatives shall not discriminate against or interfere with any employee on account of membership or nonmembership in any labor organization.
- (b) The village and its representatives shall not discriminate with respect to any employee on the basis of age, race, creed, religion, color, disability, marital status, sex, sexual orientation, national origin, ancestry, arrest record, conviction record, or membership in the national guard, state defense force or any reserve component of the military forces of the United States or this state.  
(Code 1982, § 1.10)

**Secs. 2-124 —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. Reserved**

**Sec. 2-171 – 2-200. Reserved.**

### **Division 3. Plan Commission**

**State Law reference**— Regional planning program, Wis. Stat. § 61.35.

#### **Sec. 2-201. Establishment.**

There is hereby established a village plan commission in accordance with Wis. Stat. §§ 61.35 and 62.23.

#### **Sec. 2-202. Membership.**

- (a) *Composition generally.* The village plan commission shall consist of five members who shall be paid such amount as is determined by the village board from time to time. One member of the plan commission shall be the village president. The other members of the plan commission, whom shall be citizen members of recognized experience and qualifications, may include one village trustee. All appointments shall be made by the village president, subject to confirmation by the village board.
- (b) *Presiding officer.* The members of the plan commission shall choose the presiding officer.
- (c) *Secretary.* The secretary of the plan commission shall be chosen by the members of the commission.
- (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.

#### **Sec. 2-203. Organization.**

The village 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 village president 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 village president.

- (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 administrator/clerk as a public record.

### **Sec. 2-204. Powers.**

The village 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 village. 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 village board.
- (2) Make reports and recommendations relating to the plan and development of the village to public officers, agencies, utilities and other organizations and citizens.
- (3) Recommend public improvement programs and financing thereof to the village board or village president.
- (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.

### **Sec. 2-205. Duties.**

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

- (1) Recommend a master plan for the physical development of the village to the village board.
- (2) Prepare and recommend land division regulations to the village board in accordance with Wis. Stat. § 236.45.
- (3) Recommend any changes to the master plan it deems necessary or desirable and recommend any changes or amendments to the village board that it deems 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 village planning program and to ensure harmonious and integrated planning for the village and adjoining areas.



**Sec. 2-206. Referrals.**

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

**Sec. 2-207. Additional powers and duties.**

The village plan commission shall have all additional powers and duties granted or assigned by the village board or by village ordinances. All the powers and duties granted or assigned by state statute to the village plan commission and by any amendments thereto are granted and assigned to the plan commission and such statutes are adopted by reference.

**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 village shall consist of the village president, village administrator/clerk, village trustees, a resident of the village to be appointed by the village board for a term of three years, and one or more alternate members who are residents of the village. 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 village board, and shall serve for a term of three years. The village assessor shall not be a member of the board of review.

**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 village, shall receive such compensation as shall be fixed by resolution of the village 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. Commission for Sewer and Water Utilities**

**Sec. 2-261. Commission; Composition.**

The Sewer Utility District No. 1 of the Village and the Water Utility District No. 1 of the Village shall be governed by one commission called the Yorkville Sewer and Water Commission (the "Commission"). The Commission shall be comprised of five (5) members consisting of three (3) Village Board Trustees and two (2) residents of the Village, one of whom may also serve on the Village Plan Commission.

**Sec. 2-262. Powers and duties.**

The Commission shall take entire charge and management of such sewer and water utilities and shall have such powers as are enumerated in Wis. Stat. Sec. 66.0805. The sewer and water utilities shall remain separate utilities.

**Sec. 2-263. Supervision of sewer and water utilities operations.**

The Commission shall supervise the operation of the sewer and water utilities under the general control and supervision of the Village Board.

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

The Village President shall appoint the Village Board Trustee members, and an alternate Trustee member, subject to confirmation by the Village Board. The Village Board Trustee members and alternate shall serve a one-year term commencing May 1st. The terms of the resident members of the Commission shall be five (5) years commencing October 1<sup>st</sup>, except that of those initially appointed, one shall serve for four (4) years and one for five (5) years. The Village Board shall make the appointments of the resident members to the Commission.

**Sec. 2-265. Compensation.**

Sewer and Water Commissioners shall be paid such compensation as shall be provided by the Village Board from time-to-time. However, members of the Village Board shall not receive

any additional compensation over and above that paid to them as members of the Village Board for serving as members of the Commission.

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

- (a) *Election of officers.* The Commission shall choose from among their number a president and secretary and shall make rules for their own proceedings and for the government of Water Utility District No. 1 of the Village and the Sewer Utility District No. 1 of the Village. Proceedings and governance for each utility district shall be separately acted upon and recorded.
- (b) *Records.* The Commissioners shall keep books and accounts separately for each utility district which shall be open to the public.
- (c) *Expenditures; Powers.* All expenditures of each utility district shall be audited by the Commission and the Commission shall have general powers in the construction, extension, improvement and operation of each utility, subject to the general control and supervision of the Village Board.

**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 administrator/clerk shall prepare, continue and revise a registry of electors and shall have control of such registry for the village under Wis. Stat. §§ 6.27—6.57.
- (b) The administrator/clerk 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 village elections or any elections held within the village are hereby incorporated by reference. The administrator/clerk 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 village 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 village.

(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 administrator/clerk is authorized to select alternate officials or two sets of officials to work at different times on election day.
- (c) The administrator/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 administrator/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 village.
- (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 Village President shall nominate to the village 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 village board shall immediately approve or disapprove the nominees and if disapproved, the Village President shall submit another name.  
(Code 1982, § 1.20(1)(a))

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

- (a) *Notice of appointment and confirmation.* The administrator/clerk shall notify the election inspectors and clerks of their appointment and the confirmation thereof by the village 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 village 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 village 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 village entities having custody of a village 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 village designated under section 2-353 or otherwise responsible by law to keep and preserve any village 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 village 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 administrator/clerk, 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 administrator/clerk or the administrator/clerk's designee shall act as legal custodian for the village 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 village 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 village 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 village 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 village 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 village 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 village 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 village 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 village with a person other than an authority to the same extent as if the record were maintained by the village. 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 village 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 village officer or employee, or the investigation of charges against a village 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 village property, investing of village funds or other village 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 village and any officer, agent or employee of the village, when advice is being rendered concerning strategy

with respect to current litigation in which the village 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 village attorney prior to releasing any such record and shall follow the guidance of the village attorney when separating out the exempt material. If in the judgment of the legal custodian and the village 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. Retention of public records.**

- (a) *General Records Schedule Adopted.* The Village hereby adopts, by reference, the Wisconsin Municipal Records Schedule, pertaining to the retention and destruction of public records, and approved by the State of Wisconsin Public Records Board on August 27, 2018. A copy of the Wisconsin Municipal Records Schedule (attached as Exhibit A) will be kept on file in the Village Administrator/Clerk's office, located at 925 15<sup>th</sup> Avenue, Union Grove, Wisconsin 53182, and made available for public viewing during regular office hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.
- (b) *Other Records.* In the event the Village creates a record not contemplated by the Wisconsin Municipal Records Schedule, the Village may, subject to the State of Wisconsin Public Records Board's prior approval, either adopt an applicable records retention schedule set forth by the State of Wisconsin Public Records Board, if available, or create its own retention schedule pertaining to the record. Otherwise, the retention period for such records shall be seven years.
- (c) *Repeal.* All ordinances, or portions thereof, and resolutions, or portions thereof, in conflict with any portion of the Wisconsin Municipal Records Schedule are hereby repealed. Any approved Village retention schedule, or portion thereof, for any record not contemplated by the Wisconsin Municipal Records Schedule shall remain in full force and effect.
- (d) *Effective Date.* This ordinance is effective as of the Village's receipt of the final Wisconsin Public Records Board and Wisconsin Historical Society authorization of Form PRB-002, entitled "Notification of General Records Schedule Adoption.

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

### **Sec. 2-360. Destruction of obsolete public records.**

- (a) *Destruction.* The administrator/clerk may destroy records of which he is the legal custodian, and which are considered obsolete, pursuant to the Wisconsin Municipal

Records Schedule approved by the State of Wisconsin Public Records Board on August 27, 2018, applicable statute, state administrative regulation, or Section 2-359 b) of this Code

- (b) *Interpretation.* This section shall not be construed to authorize the destruction of any public record after a lesser period than that prescribed in the Wisconsin Municipal Records Schedule approved by the State of Wisconsin Public Records Board on August 27, 2018, applicable statute, state administrative regulation, or Section 2-359 b) of this Code.
  - (c) *Notice required.* The administrator/clerk shall give at least 60 days' notice to the Wisconsin Historical Society prior to the destruction of any public record for which notification is required pursuant to the Wisconsin Municipal Records Schedule approved by the State of Wisconsin Public Records Board on August 27, 2018, applicable statute, or state administrative regulation.
  - (d) *Destruction of taped recordings.* 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 accordance with Wis. Stat. § 19.21(7). (Code 1982, § 1.36)
- State law reference—** Destruction of records, Wis. Stat. § 19.35(5).

**Secs. 2-361 —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 Village Board or a board, commission, committee, agency, officer or employee of the village 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.

(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 Village Board.

(2) Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.

(3) The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under Wis. Stat. ch. 125.

(4) Judgments and orders of a court.

(5) Determinations made during village labor negotiations.

(6) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

(7) 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 Village Board, commission, committee, agency, officer, employee or agent of the village making a determination under section 2-391, and every person, committee or agency of the village 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 village, 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 village who is aggrieved may initiate review under this article of a determination of any other department,

board, commission, agency, officer or employee of the village, 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. If the person aggrieved is seeking a modification or waiver from any requirement of an ordinance pursuant to section 2-404, the person shall provide the information required under section 2-404(a)(2). 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. If a request has been made to grant a modification or waiver as part of a request for review of an initial determination, the person conducting the review shall conduct the same pursuant to ordinance. If it is determined that a modification or waiver may be appropriate, the employee, officer, agent, committee, or commission shall refer the matter to the Village Board and make a recommendation with respect to the request for modification and waiver.

(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 administrator/clerk a written notice of appeal.

(Code 1982, § 24.09)

### **Sec. 2-400. Hearing on administrative appeal.**

- (a) *Time of hearing.* The village shall provide the appellant a hearing on an appeal under section 2-399 within 30 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 Village President shall appoint, without confirmation, an impartial decision-maker, who may be an officer, committee, board or commission of the village or the Village 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 Village President 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 village.
- (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 and, if applicable, including any approval of a modification or waiver of an ordinance or any portion of it pursuant to section 2-404. 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 village; 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 to have the ordinance modified by the Village 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 Village Board, board, commission, committee or agency shall be made part of the record on review under section 2-402.
  - (c) The Village 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)

## **Sec. 2-404. Modification or Waiver**

### **(a) Authority; Application**

- (1) **Authority.** Where, in the judgment of the Village Board, it would be inappropriate to apply literally the provisions of an ordinance because an exceptional circumstance exists, the Village Board may waive or modify any requirements to the extent deemed just and proper. Only the Village Board may grant a waiver or modification. If an employee, officer, agent, committee, or commission of the Village has been requested to grant a modification or waiver as part of a request for review of initial determination, the person conducting the clarification review shall conduct the same pursuant to ordinance. If it is determined that a modification or waiver may be appropriate, the employee, officer, agent, committee, or commission shall refer the matter to the Village Board and make a recommendation with respect to the request for modification and waiver.
  - (2) **Application.** Application for any such modification or waiver shall be made by the person aggrieved in writing as part of the request for review of initial determination, stating fully all facts relied upon in requesting the modification or waiver, and shall be supplemented with any additional data that may aid the Village Board in the analysis of the proposed modification or waiver. This application may be supplemented at any time during the review process.
- (b) **Considerations.** The Village Board may consider the following factors, in addition to any other factors deemed relevant by the Village Board.
- (1) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the ordinance.
  - (2) Whether the request for a waiver or modification, if granted, would be detrimental to the management and control of Village property, finances, highways, streets, navigable waters, and public service, or otherwise be detrimental to the health, safety, welfare and convenience of the public.
  - (3) Whether the request for waiver or modification, if granted, would benefit the person aggrieved in a way that is not consistent with the Village's interests.

- (4) Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the person aggrieved and therefor addressed under section 2-403, Legislative Review.
  - (5) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (c) **Conditions for Granting.** The Village Board shall not grant a modification or waiver to an ordinance unless it makes findings based upon the evidence presented to it in each specific case and based upon the consideration of the factors under section 2-404(b), that the granting of the modification or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the Village. Any decision to grant a modification or waiver shall not be arbitrary, capricious, or prejudicial in nature.
- (d) **Granting by the Village Board.**
- (1) The Village Board, if it approves of the modification or waiver of an ordinance or any portion of it, shall do so only after a hearing under section 2-400, or in conducting a legislative review under section 2-403.
  - (2) Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of the ordinance.
  - (3) A majority vote of the Village Board shall be required to grant any modification or waiver to an ordinance. The reasons why such modification or waiver was granted shall be entered as part of the record of the hearing.
  - (4) If the Village Board grants a modification or waiver, the Board may also order that the ordinance itself be changed to accommodate the kind of situation presented by the person aggrieved.
- (e) **Past Non-Compliance Not Waived.** A waiver or modification that is granted pursuant to a written request as described in the section shall not waive any fines, forfeitures, or other penalties that may have accrued due to violations of the ordinance that took place prior to the date of administrative appeal, unless specifically stated otherwise in the decision of the Village Board.

**Secs. 2-405—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 Village 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/village hall at such times, as he shall determine, in consultation with the town/village clerk as to the availability of the town/village 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 Town of Dover and Village of 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 village 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/village 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.