

ORDINANCE NO. 06-2014

AN ORDINANCE AMENDING SECTIONS 1-14, 6-34, 6-81, 14-142, 14-175, 14-324, 14-681, 14-788, 14-985, 14-1002, 22-116, 30-131, 34-58, AND 50-2 OF THE TOWN OF YORKVILLE CODE OF ORDINANCES REGARDING CHANGING REFERENCES FROM CONSTABLE AND LAW ENFORCEMENT OFFICER TO CODE ENFORCEMENT OFFICER

The Town Board of the Town of Yorkville, Racine County, Wisconsin, do ordain as follows:

1. That Section 1-14 of the Town of Yorkville Code of Ordinances regarding penalty provisions and enforcement be, and hereby is, amended to read as follows:

" Sec. 1-14. Penalty provisions.

- (a) *General penalty.* Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - (1) *First offense.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
 - (2) *Second offense.* Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$500.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.
- (b) *Continued violations.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (c) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(d) *Citation method of enforcement.*

- (1) *Enforcement.* The town hereby elects to use the citation method of enforcement of ordinances. The town code enforcement officer and other town personnel charged with the responsibility of enforcing the provisions of this Code are hereby authorized to issue citations for violations of this Code, including ordinances for which a statutory counterpart exists.
- (2) *Contents of citation.* The citation shall contain the following:
 - a. The name and address of the alleged violator.
 - b. Factual allegations describing the alleged violation.
 - c. The time and place of the offense.
 - d. The number and section of the ordinance violated.
 - e. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
 - f. The time and date at which the alleged violator may appear in court.
 - g. A statement which in essence informs the alleged violator:
 1. That a cash deposit may be made, which deposit shall be delivered or mailed to the Town of Yorkville prior to the time of the initial court appearance.
 2. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
 3. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by Wis. Stats. § 757.05, a jail assessment imposed by Wis. Stats. § 302.46(1), a crime laboratories and drug law enforcement assessment imposed by Wis. Stats. § 165.755, any applicable consumer information assessment imposed by Wis. Stats. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stats. § 973.055(1) not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
 4. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may

issue a summons or a warrant for the alleged violator's arrest or consider the nonappearance to be a plea of no contest and enter judgment, or the town may commence an action to collect the forfeiture, the penalty assessment imposed by Wis. Stats. § 757.05, the jail assessment imposed by Wis. Stats. § 302.46(1), the crime laboratories and drug law enforcement assessment imposed by Wis. Stats. § 165.755, any applicable consumer information assessment imposed by Wis. Stats. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stats. § 973.055(1).

5. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stats. § 800.093.
 - h. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (d)(2)g of this section has been read. Such statement shall be sent or brought with the cash deposit.
 - i. Such other information as the town deems necessary.
- (3) *Form of citation.* The form of the citation to be used by the town is on file in the clerk-treasurer's office and is adopted by reference as though fully set forth in this section.
- (4) *Schedule of deposits.*
 - a. A schedule of cash deposits may be established for use with citations issued under this section of the Code by adoption of a resolution by the town board according to the penalty provisions of this Code or the Wisconsin Statutes, whichever is applicable. In the absence of a scheduled or statutorily mandated deposit amount for a particular violation, the deposit amount shall be \$100.00 plus applicable court costs and assessments.
 - b. Deposits shall be made in cash, money order or certified check to the Town of Yorkville who shall provide a receipt therefor.
- (5) *Procedure.* Wis. Stats. § 66.119(3) and any amendments thereto, relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(6) *Nonexclusivity.*

- a. *Other ordinance.* Adoption of this section does not preclude the town board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
- b. *Other remedies.* The issuance of a citation under this section shall not preclude the town board or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order."

2. That Section 6-34 of the Town of Yorkville Code of Ordinances regarding dognapping be, and hereby is, amended to read as follows:

"Sec. 6-34. Dognapping.

No person may take the dog of another from one place to another without the owner's consent or cause such a dog to be confined or carried out of the town or held for any purpose without the owner's consent. This section does not apply to code enforcement officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted in this chapter."

3. That Section 6-81 of the Town of Yorkville Code of Ordinances regarding neglected or abandoned animals; police powers be, and hereby is, amended to read as follows:

"Sec. 6-81. Neglected or abandoned animals; police powers.

- (a) No person may abandon any animal.
- (b) Any code enforcement officer may remove, shelter and care for any animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
- (c) If the owner or custodian is unknown and cannot with reasonable effort be ascertained, or does not within five days after notice redeem the animal by paying the expenses incurred, the animal may be treated as a stray and dealt with as such.
- (d) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery it shall be lawful for such officer to kill such animal."

4. That Section 14-142 of the Town of Yorkville Code of Ordinances regarding an underage person's presence on licensed premises; exceptions be, and hereby is, amended to read as follows:

"Sec. 14-142. Underage person's presence on licensed premises; exceptions.

Notwithstanding the restrictions and exceptions applicable to underage persons on licensed premises as set forth in Wis. Stats. ch. 125, and as adopted by subsection (1) of this section, an underage person may enter or remain in a room in a class B licensed premises separate from any room where alcohol beverages are sold or served if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present, provided that the licensee shall have accomplished each of the following:

- (1) The licensee shall have submitted to and have obtained the approval of the town board for the plan of operation and the anticipated schedule of events for such activity, together with such other information as the town board may request. In granting such approval, the town board shall first determine that the proposed activity is beneficial for underage persons, the proposed activity serves a community purpose and the presence of underage persons of the premises would not endanger their health, safety and welfare or that of the other members of the community.
- (2) The licensee has obtained the written authorization of the town board or code enforcement officer permitting underage persons to be present under the terms of this article on the date specified in the authorization. The licensee shall obtain a separate authorization from the town board or code enforcement officer for each day on which underage persons will be present on the premises. In determining whether to issue such authorization, the town board or code enforcement officer shall make a determination that the presence of underage persons on the licensed premises would not endanger their health, welfare or safety or that of the other members of the community. Among the criteria, which the town board or code enforcement officer shall utilize in making that determination, are the following:
 - a. The plan is consistent with the authorization of the town board.
 - b. Provision has been made for:
 1. An acceptable security plan for the event.
 2. Conducting the event in a separate room or space with walls or partitions to segregate the event from the rest of the premises.
 3. Adequate parking and traffic control.

4. Securing of all alcohol beverages during any such event.
5. Prohibiting the bringing of alcohol beverages or other illegal substances to the premises.
6. Noise control.
7. Hours of operation.
8. Ages of persons permitted.
9. Control of exit and reentry.
10. Such other matters which may be reasonably considered in approving of the conduct of the event."

5. That Section 14-175 of the Town of Yorkville Code of Ordinances regarding investigation of peddlers, canvassers, solicitors and transient merchants be, and hereby is, amended to read as follows:

"Sec. 14-175. Investigation.

The clerk-treasurer may cause the applicant and the facts stated in the application to be investigated and may request assistance from the code enforcement officer in such investigation. The clerk-treasurer shall approve or disapprove the application within 72 hours after its submission."

6. That Section 14-324 of the Town of Yorkville Code of Ordinances regarding revocation and suspension of mobile home licenses be, and hereby is, amended to read as follows:

"Sec. 14-324. Revocation and suspension.

- (a) Any license granted under the provisions of this article shall be subject to revocation or suspension for cause by the town board upon complaint filed with the clerk-treasurer, signed by any code enforcement officer, health officer or building inspector, after a public hearing upon such complaint; provided, however, that the holder of such license shall be given ten days' notice in writing of such hearing and shall be entitled to appear and be heard as to why such license should not be revoked.
- (b) A licensee shall be deemed liable for revocation or suspension if the licensee violates any of the regulations and standards for the operation of a mobile home

park as established in this article, or if the licensee fails to pay the monthly parking permit fees set forth in this article.

- (c) Any holder of a license which is revoked or suspended by the town board may, within 20 days of the date of such revocation or suspension, appeal therefrom to the circuit court by filing a written notice of appeal with the clerk-treasurer, together with a bond executed to the town in the sum of \$500.00 with two sureties or a bonding company approved by the clerk-treasurer, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against the licensee, all as provided for by Wis. Stats. § 66.0435."

7. That Section 14-681 of the Town of Yorkville Code of Ordinances regarding public shows and inspection of premises be, and hereby is, amended to read as follows:

"Sec. 14-681. Inspection of premises.

The clerk-treasurer shall refer all applications filed under this article to the code enforcement officer and building inspector who shall investigate and inspect each application to determine whether the place sought to be licensed complies with all applicable laws and ordinances and is a proper place for the purpose for which it is to be used."

8. That Section 14-788 of the Town of Yorkville Code of Ordinances regarding junk dealers and restriction of licenses be, and hereby is, amended to read as follows:

"Sec. 14-788. Restriction of licenses.

- (a) Accumulation of junk. No person except a licensed junk dealer or junk peddler shall buy, collect, gather junk or shall allow the junk to accumulate in any substantial amount in the town.
- (b) Storage restrictions. No junk shall be accumulated, stored or placed on any premises in the town within 750 feet from the centerline of any public highway or roadway or within one-half mile from the nearest residence, school, church or other place of public gathering. No burning of junk shall be done on such premises unless such burning takes place not less than 1,000 feet from the centerline of any public highway or roadway within the town and not less than one-half mile from the nearest residence, school, church or other place of public gathering.
- (c) Storage of combustible junk. No combustible junk shall be stored in any building unless such building is approved by the building inspector and is of fireproof construction.
- (d) Enclosure of junkyards. Every junkyard shall be enclosed by a substantial enclosure consisting of a solid fence, to be approved by the building inspector, not less than eight feet in height and maintained in proper condition. Junk placed in a

junkyard shall be piled as to not rest against or project through the enclosure. No person shall affix or display or permit to be affixed or displayed upon such enclosure any picture, sign, bill, placard, pamphlet, notice or other thing for the purpose of advertising or notification. The words "Post No Bills" shall be painted on such enclosure at intervals in letters six inches high.

- (e) Record of purchases. A written record consisting of an accurate description and price of the goods, articles and things purchased, together with the name, age and residence of the seller shall be maintained by each licensee under this article. Such record shall be available to any code enforcement officer for inspection at any reasonable times.
- (f) Purchase from certain persons. No purchase shall be made from any child or children under 18 years of age or from any intoxicated or unknown person.
- (g) Purchase of certain property. No person shall purchase used pipe, faucets, boilers, spigots or coils from any person except the manufacturer thereof, a licensed plumber, a licensed peddler or the owner of the building from which material is taken.
- (h) Rodents and vermin. Effective means for the elimination of the rodents and vermin commonly infesting junk areas shall be administered by all licensees under this article.
- (i) Garbage. No person shall store any garbage materials on the premises licensed under this article.
- (j) Revocation. See section 14-46 for provisions regarding the revocation of licenses."

9. That Section 14-985 of the Town of Yorkville Code of Ordinances regarding adult oriented entertainment establishments and hours of operation be, and hereby is, amended to read as follows:

"Sec. 14-985. Hours of operation.

- (a) No adult oriented establishment shall be open between the hours of 12:00 midnight and 10:00 a.m., Monday through Saturday or anytime on Sundays.
- (b) All adult oriented establishments shall be open to inspection at all reasonable times by the code enforcement officer, the county sheriff's department, the building inspectors, and the health department."

10. That Section 14-1002 of the Town of Yorkville Code of Ordinances regarding adult oriented entertainment establishments and license applications be, and hereby is, amended

to read as follows:

"Sec. 14-1002. Application.

- (a) Any person desiring to secure a license shall make application to the clerk-treasurer. The application shall be filed in triplicate and dated by the clerk-treasurer. A copy of the application shall be distributed promptly by the clerk-treasurer to the code enforcement officer and to the applicant.
- (b) The application for a license shall be upon a form provided by the clerk-treasurer. An applicant for a license shall furnish the following information under oath:
 - (1) Name (including all aliases) and address.
 - (2) Written proof that the individual is at least 18 years of age.
 - (3) The name, if known, and address of the adult oriented establishment to be operated by the applicant and the exact nature of the adult use to be conducted.
 - (4) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name (including all aliases) and address of the registered agents, and the name and address of all shareholders owning more than 15 percent of the stock in such corporation and all officers and directors of the corporation. Within 20 days of any change in registered agents, notice of such change shall be provided to the clerk-treasurer by the licensee.
 - (5) If the applicant is a partnership, the names (including all aliases) and addresses of all partners. If the applicant is a limited liability company, the names (including all aliases) of all members.
 - (6) Whether the applicant or any person required to be named is currently operating, or has previously operated, in this or any other county or state, under an adult oriented establishment license or similar business license or permit; and whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (c) Within 30 days of receiving an application for a new license or an application to renew a license, the clerk-treasurer shall notify the applicant whether the application is granted or denied. Any application for a license that does not include all of the information and documents required under this section, or the appropriate application fee required by this section, shall be deemed to be incomplete and shall be returned to the applicant without any action thereon being taken by the town.

- (d) Whenever an application is denied, or a license is not renewed, the clerk-treasurer shall advise the applicant in writing of the reasons for such action. If the town board denies the license, the decision may be reviewed under article VII of chapter 2
- (e) Refusal of the applicant to give any information relevant to the application or his refusal or failure to appear at any reasonable time and place for examination under oath regarding such application or his refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the clerk-treasurer."

11. That Section 22-116 of the Town of Yorkville Code of Ordinances regarding public nuisances and abatement be, and hereby is, amended to read as follows:

"Sec. 22-116. Abatement.

- (a) Enforcement. The code enforcement officer, the fire chief, the building inspector and the health officer shall enforce those provisions of this article that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- (b) Summary abatement. If the inspecting officer determines that a public nuisance exists within the town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the town chairperson may direct the proper officer to cause the public nuisance to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (c) Abatement after notice. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspecting officer shall serve notice on the person causing or maintaining the nuisance to remove the public nuisance within ten days. If such nuisance is not removed within ten days, the proper officer shall cause the nuisance to be removed as provided in subsection (b) of this section.
- (d) Other methods not excluded. Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the town or its officers in accordance with the laws of the state.
- (e) Court order. Except when necessary under subsection (b) of this section, an officer under this article shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any

court having jurisdiction for an order assisting the abatement of the public nuisance."

12. That Section 30-131 of the Town of Yorkville Code of Ordinances regarding loitering restrictions for sex offenders be, and hereby is, amended to read as follows:

"Sec. 30-131. Loitering restrictions for sex offenders.

(a) Loitering.

- (1) Offense. It shall be unlawful for any sex offender as defined in subsection 30-130(b)(2), to loiter or prowl within 200 feet of or at any school or school property; recreational trail, playground or park; or a licensed day care center or other location where children regularly congregate; in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a code enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a code enforcement officer shall, prior to any citation for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself, or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the code enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the code enforcement officer at the time, would have dispelled the alarm.
- (2) Exceptions. The prohibitions set forth in subsection (a) shall not apply where the actor was with his or her parent or other adult person having his or her care, custody or control; or the actor was exercising First Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly."

13. That Section 34-58 of the Town of Yorkville Code of Ordinances regarding enforcement of the disposal of solid waste be, and hereby is, amended to read as follows:

"Sec. 34-58. Enforcement.

The emergency government coordinator and his deputies, as well as the code enforcement officer or Racine County Sheriff's Department, shall have authority to issue citations or complaints under this division."

14. That Section 50-2 of the Town of Yorkville Code of Ordinances regarding

erection of official signs and signals be, and hereby is, amended to read as follows:

"Sec. 50-2. Erection of official signs and signals.

- (a) The town board, or its designated deputies, the code enforcement officer and the Racine County Sheriff's Department, at their direction, are hereby authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals and markings conforming to the Uniform Traffic Control Devices Manual and giving such notice of the provisions of this chapter as required by state law. Signs shall also be erected in such locations and manner as authorized by the town board to give adequate warning to users of the street, road, highway or alley in question.
- (b) No person shall intentionally damage, deface, move, remove or obstruct an official traffic sign or signal or intentionally interfere with the effective operation of such sign or signal."

15. That this ordinance shall become effective upon adoption and publication as provided by law.

Adopted by the Town Board of the Town of Yorkville, Racine County, Wisconsin, this 9th day of June, 2014.

Ayes: 2

Nays: 0

Abstentions: 0

TOWN OF YORKVILLE

By:

Peter L. Hansen
Peter L. Hansen, Chairperson

Attest:

Michael McKinney
Michael McKinney, Clerk-Treasurer

Town of Yorkville
Notice of Newly Enacted Ordinances

Please take notice that on Monday, June 9, 2014, the Town Board of the Town of Yorkville enacted the following ordinances:

1. Ordinance No. 02-2014 amending Section 50-91(a) of the Town of Yorkville Code of Ordinances regarding Class B Highways designated. This ordinance exempts Grandview Parkway from the Town's Class B weight limits.
2. Ordinance No. 03-2014 amending Section 14-35(14) of the Town of Yorkville Code of Ordinances regarding Enumerated Businesses and Fees for Gaming Machines. This ordinance replaces a reference to "Gambling" with "Electronic Gaming."
3. Ordinance No. 04-2014 amending Sections 38-111 - 38-114 of the Town of Yorkville Code of Ordinances regarding Driveways and Culverts. This ordinance provides for the approval of driveway requests by the Town's Building Inspector.
4. Ordinance No. 05-2014 amending Article VIII entitled Fireworks within Chapter 14 - Businesses and amending Division 3 entitled Fireworks of Article II - Crimes Against Public Safety within Chapter 30 - Miscellaneous Offenses of the Town of Yorkville Code of Ordinances. This ordinance does the following: consolidates two existing ordinances; allows individuals to apply for fireworks permits; requires fireworks permit applicants to submit proof of a policy of liability insurance showing evidence of fireworks liability, in the amount of no less than \$1,000,000, with the Town of Yorkville named as an additional insured.
5. Ordinance No. 06-2014 amending Sections 1-14, 6-34, 6-81, 14-142, 14-175, 14-324, 14-681, 14-788, 14-985, 14-1002, 22-116, 30-131, 34-58, and 50-2 of the Town of Yorkville Code of Ordinances regarding changing references from Constable and Law Enforcement Officer to Code Enforcement Officer. This ordinance replaces all references to "Constable" and "Law Enforcement Officer" with "Code Enforcement Officer."
6. Ordinance No. 07-2014 amending the Title of Chapter 14 - Businesses to be Chapter 14 - Licenses for the Town of Yorkville Code of Ordinances. This ordinance changes the title of Chapter 14 from "Businesses" to "Licenses."

These ordinances take effect upon this publication. The full text of these ordinances may be obtained at the Town of Yorkville Clerk-Treasurer's Office, 925 15th Avenue, Union Grove, Wisconsin 53182. The phone number for the Town Clerk-Treasurer is (262) 878-2123.

Michael McKinney
Clerk-Treasurer
Town of Yorkville

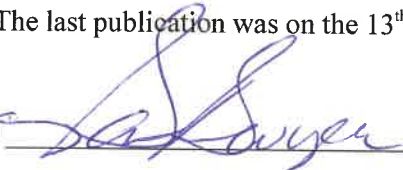
Affidavit of Printing State of Wisconsin

County of Racine

City of Burlington

Southern Lakes Newspapers, LLC, certifies that it is the publisher of the Westine Report; that such paper is a secular newspaper of general circulation in said county; that it is printed and published in the village/city, county and state aforesaid. It hereby further certifies that a notice, of which the attached notice is a true copy, has been legally published in said newspaper 1 time(s) for 1 consecutive weeks(s); That the first publication was on the 13th day of June, 2014; The last publication was on the 13th day of June, 2014.

Signed



By Pam Dwyer, for Southern Lakes Newspapers, LLC

Subscribed and sworn to before me this

12th day of June 2014.



Notary Public, State of Wisconsin

My commission expires

6/20/18

KAREN WHITTINGTON
Notary Public
State of Wisconsin

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Michael McKinney
Clerk-Treasurer
Town of Yorkville

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