

PART I: ADMINISTRATIVE LEGISLATION

Chapter 1. GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

Article I. Construction and Penalties

[Adopted 3-13-2000 as §§ 1-1-2, 1-1-3, 1-1-5, 1-1-6 and 1-1-7 of the 2000 Code]

§ 1-1. Principles of construction.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code unless such application would be clearly inconsistent with the plain meaning or intent of the Code:

A.

Acts by agents. When an ordinance requires that an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

B.

Code. The words "Code" and "Municipal Code," when used in any section of this Code, shall refer to this Code of the Town of McMillan unless the context of the section clearly indicates otherwise.

C.

Computation of time. In computing any period of time prescribed or allowed by this Code, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this subsection, "legal holiday" means any statewide legal holiday specified by state law.

D.

Fine. The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.

E.

Gender. Every word in this Code referring to gender shall be gender neutral.

F.

General rule. All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the ordinance.

G.

Person. The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

H.

Repeal. When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.

I.

Singular and plural. Every word in this Code referring to the singular number only shall also be construed to apply to several persons or things, and every word in this Code referred to the plural number shall also be construed to apply to one person or thing.

J.

Tense. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

K.

Town. The term "Town" shall mean the Town of McMillan, Marathon County, Wisconsin.

L.

Wisconsin Administrative Code. The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

M.

Wisconsin Statutes. The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in this Code, the Wisconsin Statutes as of the adoption of this Code, as amended or renumbered from time to time.

§ 1-2. Conflicting provisions.

A.

If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

B.

If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

§ 1-3. Effective date.

A.

Code. The Code of the Town of McMillan, Marathon County, Wisconsin, shall take effect as provided by state law.

B.

Subsequent ordinances. All ordinances passed by the Town Board subsequent to the adoption of the Code, except when otherwise specifically provided, shall take effect from and after their publication or legal posting.

§ 1-4. Violations and penalties.

A.

General penalty. Except where a penalty is provided elsewhere in this Code, 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 \$25 nor more than \$500, 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 shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000 for each such offense, together with 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 of prosecution 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.

Other remedies. The Town of McMillan shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.¹¹

[1]:

Editor's Note: Original Sec. 1-1-6(d) through (g), regarding violations by juveniles, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 1-5. Documents incorporated by reference.

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Town Clerk shall maintain in his/her office a copy of any such material as adopted and as amended from time to time. Materials on file at the Town Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the Town Clerk, subject to such restrictions on examination as the Clerk imposes for the preservation of the material.

Article II. Adoption of Code

[An ordinance adopting the Code of the Town of McMillan and making certain substantive changes to existing ordinances of the Town will be proposed before the Town Board. Upon final adoption, it will be included here as Article II of this chapter.]

Chapter 7. ADMINISTRATIVE REVIEW

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 4, Ch. 1, of the 2000 Code. Amendments noted where applicable.]

§ 7-1. Review of administrative determinations.

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

§ 7-2. Determinations reviewable.

The following determinations are reviewable under this chapter:

A.

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

B.

The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in § **7-3D**.

C.

The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.

D.

The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

E.

The suspension or removal of a Town officer or employee except as provided in § **7-3B** and **G**.

§ 7-3. Determinations not subject to review.

The following determinations are not reviewable under this chapter:

A.

A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Town Board.

B.

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

C.

The denial of a tort or contract claim for money required to be filed with the Town under § 62.25, Wis. Stats.

D.

The grant, denial, suspension or revocation of a fermented malt beverage license under Ch. 125, Wis. Stats.

E.

Judgments and orders of a court.

F.

Determinations made during municipal labor negotiations.

G.

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

§ 7-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MUNICIPAL AUTHORITY

Includes the Town Board or a board, commission, committee, agency, officer, employee or agent of the Town making a determination under § **7-1** and every person, committee or agency of the Town to make an independent review under § **7-8B**.^[1]

PERSON AGGRIEVED

Includes any individual, partnership, corporation, association, public or private organization, or officer, department, board, commission or agency of the Town whose rights, duties or privileges are adversely affected by a determination of a municipal authority.

[1]:

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

§ 7-5. Actions by Town agencies.

A department, board, commission, agency, officer or employee of the Town who is aggrieved may not initiate review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the Town, but may respond or intervene in a review proceeding under this chapter initiated by another.

§ 7-6. Reducing determination to writing.

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

§ 7-7. Request for review of determination.

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within 30 days of notice to such person of such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body which 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.

§ 7-8. Review of determination.

A.

Initial determination. If a request for review is made under § 7-7, the determination to be reviewed shall be termed an initial determination.

B.

Who shall make review. A review under this section may be made by the officer, employee, agent, agency, committee, board, commission or body which made the initial determination. However, an independent review of such determination by another person, committee or agency of the Town ("municipal authority"), appointed by the Chairperson without confirmation, shall be provided if practical.

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/her request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his/her 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/her right to appeal the decision, that appeal may be taken within 30 days, and the office or person with whom notice of appeal shall be filed.

§ 7-9. Administrative appeal.

A.

From initial determination or decision on review.

(1)

If the person aggrieved had a hearing substantially in compliance with § **7-10** when the initial determination was made, he/she may elect to follow §§ **7-6** through **7-8** but is not entitled to a further hearing under § **7-10** unless granted by the municipal authority. He/she may, however, seek judicial review under § **7-12**.

(2)

If the person aggrieved did not have a hearing substantially in compliance with § **7-10** when the initial determination was made, he/she shall follow §§ **7-6** through **7-8** and may appeal under this section from the decision made under § **7-8**.

B.

Time within which appeal may be taken under this section. Appeal from a decision on review under § **7-8** 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 office or person designated in the municipal authority's decision on review written notice of appeal.

§ 7-10. Hearing on administrative appeal.

A.

Time of hearing. The Town shall provide the appellant a hearing on an appeal under § **7-9** within 15 days of receipt of the notice of appeal and shall serve the appellant with

notice of such hearing by mail or personal service at least 10 days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Town Attorney, who shall forthwith advise the Chairperson of such appeal.

B.

Conduct of hearing. At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Chairperson shall appoint, without confirmation, an impartial decision maker who may be an officer, committee, board or commission of the Town or the Town Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Chairperson to conduct the hearing and report to the decision maker.

C.

Record of hearing. The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Town.

D.

Hearing on initial determination. Where substantial existing rights are affected by an initial determination, the municipal authority making such determination by an initial determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making such determination.

§ 7-11. Final determination.

A.

Within 20 days of completion of the hearing conducted under § **7-10** and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.

B.

A determination following a hearing substantially meeting the requirements of § **7-10** or a decision on review under § **7-8** following such hearing shall be a final determination, judicial review of which may be obtained under § **7-12**.

§ 7-12. 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 same at his expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the Town and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

§ 7-13. Legislative review.

A.

Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the Town Board or any of its boards, commissions, committees or agencies which may have jurisdiction.

B.

If in the course of legislative review under this section a determination is modified, such modification and any evidence adduced before the Town Board, board, commission, committee or agency shall be made part of the record on review under § 7-12.

C.

The Town Board, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under § 7-10.

Chapter 23. BOARDS, COMMISSIONS AND COMMITTEES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 2, Ch. 5, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 132.

Town Board — See Ch. 176.

§ 23-1. Board of Review.

A.

Composition. The Board of Review shall consist of the Chairperson, Town Board Supervisors and Town Clerk.

B.

Duties. The duties and functions of the Board of Review shall be as prescribed in §§ 70.46 and 70.47, Wis. Stats.

C.

Meetings. The Board of Review shall meet annually on the second Monday of May, or any day within the next 30 days, at the Town Hall of the Town of McMillan, and notice of such meeting shall be published pursuant to the state statutes. The Board, through its

Clerk, shall establish its meeting hours pursuant to § 70.47(3)(b), Wis. Stats. The Board may adjourn from day to day or from time to time, until such time as its business is completed, provided that adequate notice of each adjournment is so given.

D.

Compensation. Compensation for Board of Review members shall be as established by the Town Board.

§ 23-2. Plan Commission.

A.

Composition. The Plan Commission shall consist of five citizen members and an ex officio Town Supervisor.

B.

Appointment.

(1)

Supervisor representative. The Supervisor representative shall rotate among the membership of the Town Board. The Supervisor representative shall not vote.

(2)

Citizen members.

(a)

The five citizen members shall be appointed by the Chairperson for staggered terms of three years, subject to Town Board approval. One or two members shall be appointed each year at the first regular meeting in May.

(b)

All citizen members shall be persons of recognized experience and qualifications and shall hold office until their respective successors are selected and qualified. Whenever a vacancy shall occur in any citizen member, a successor shall be appointed for the unexpired term in the manner as set forth above.

C.

Record; quorum. The Plan Commission shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the Town Clerk. Three members shall constitute a quorum, but all actions shall require the affirmative approval of a majority of all of the members of the Commission.

D.

Duties.

(1)

The Comprehensive Plan.¹¹

(a)

The Plan Commission shall make, adopt and, as necessary, amend, extend or add to the Comprehensive Plan, subject to Town Board confirmation, for the physical development of the Town, including areas outside of its boundaries which, in the Plan Commission's judgment, bear relation to the development of the Town. The

Comprehensive Plan, with the accompanying maps, plats and descriptive and explanatory matter, shall show the Commission's recommendations for such physical development and may include, among other things, without limitation because of enumeration, the general location, character and extent of streets, highways, freeways, street grades, roadways, walks, parking areas, public places and areas, parks, parkways, playgrounds, sites for public buildings and structures, and the general location and extent of sewers, water conduits and other public utilities, whether privately or publicly owned, the acceptance, widening, narrowing, extension, relocation, removal, vacation, abandonment or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, routes or terminals, the general location, character and extent of community centers and neighborhood units, and a comprehensive zoning plan.

(b)

The Commission may adopt the Comprehensive Plan as a whole by a single resolution or, as the work of making the whole Comprehensive Plan progresses, may from time to time by resolution adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. The adoption of the plan or any part, amendment or addition shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the Plan Commission, subject to confirmation by the Town Board. The resolution shall refer expressly to the maps, descriptive matter, and other matters intended by the Commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the Secretary of the Commission, and a copy of the plan or part thereof shall be certified to the Town Board. The purpose and effect of the adoption and certifying of the Comprehensive Plan or part thereof shall be solely to aid the Plan Commission and the Town Board in the performance of their duties.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Matters referred to Plan Commission. The Town Board or officer of the Town having final authority thereon shall refer to the Plan Commission, for its consideration and report before final action is taken by the Board, public body or officer, the following matters: the location of any statue or other memorial; the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds; the location, extension, abandonment or authorization for any public utility, whether publicly or privately owned; all plats of lands in the Town or within the territory over which the Town is given platting jurisdiction by Ch. 236, Wis. Stats.; the location, character and extent or acquisition, leasing or sale of lands for public or semipublic housing, slum clearance, relief of congestion, or vacation camps for children; and the amendment or repeal of any land use ordinance.

(3)

Miscellaneous powers. The Commission may make reports and recommendations relating to the plan and development of the Town to public officials and agencies, civic, educational, professional and other organizations and citizens. It may recommend to the Town Board programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work. The Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers thereon. In general, the Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning in cooperation with the Town Board. The Commission shall oversee community development block grants.

(4)

Zoning/land division applications. When applications are filed for rezoning with Marathon County or land divisions under Chapter **446**, Subdivision of Land, of this Code, the Plan Commission shall hold required local hearings and make advisory recommendations to the Town Board on such matters.

E.

Compensation; oath. Compensation may be established by the Town Board for service on the Commission. Citizen members shall take the official oath required by § 19.01, Wis. Stats., which shall be filed with the Town Clerk.

F.

Organization. As soon as all members of the first Commission shall have been appointed, the Town Clerk shall give each member a written notice of the appointment and thereon shall fix the time and place of the first meeting which shall be not less than five nor more than 10 days thereafter. Such Commission shall elect a chairperson, vice chairperson and a secretary.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

G.

Employees; budget. The Plan Commission has the power to recommend employing experts and such staff as may be necessary and to pay for their services and such other expenses as may be necessary and proper, within the limits of the budget established by the Town Board or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the Town Board. As far as possible, the Commission shall utilize the services of existing Town officials and employees.

H.

Rules of procedure; report. The Plan Commission is hereby authorized to adopt rules governing its own proceedings. The Commission shall make a monthly report in writing to the Town Board of its transactions and expenditures, if any, for the preceding month, with such general recommendations as to matters covered by its prescribed duties and authority as seem proper.

I.

Special meetings. Individuals requesting a special meeting of the Plan Commission may be required to pay a fee in accordance with the Town Board's current fee schedule for such meeting.^[3]

[3]:

Editor's Note: See Ch. 72, Fees.

J.

Special needs; Commission meetings. Any person who has a qualifying disability as defined by the American With Disabilities Act that requires the meeting or the materials at the meeting to be in an accessible location or format must contact the Town office (by telephone) by 2:00 p.m. of the Friday prior to the meeting so that any necessary arrangements can be made to accommodate such request.

§ 23-3. Highway and Transportation Committee.

At the first regular Board meeting in May, the Town Chairperson shall annually appoint one Supervisor and at least three citizens to serve on the Highway and Transportation Committee. The Highway and Transportation Committee shall make advisory recommendations to the Town Board regarding the Town's annual road resurfacing program.^[2]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: Original Sec. 2-5-4, Park Committee, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 23-4. Meetings and public notice.

A.

Regular meetings; public notice.

(1)

Every board, committee and commission created by or existing under the ordinances of the Town shall:

(a)

Schedule a date, time and place for its meetings;

(b)

Post or, when necessary, publish, notice in or notify the official Town newspaper in advance of each such regular meeting of the date, time, and place thereof, in compliance with state law; and/or

(c)

Post and/or publish an agenda of the matters to be taken up at such meeting.

(2)

A separate public notice shall be given for each meeting at a time and date reasonably proximate to the time and date of the meeting, but not less than 24 hours prior to the commencement of such meeting unless otherwise authorized by law.

(3)

Such notice shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session which may be authorized by law.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Notice to members. Every member of any board, commission or committee of the Town of McMillan shall be notified by the secretary thereof that a meeting is to be held and the time and place of such meeting and the subject to be considered thereat. No member shall be intentionally excluded from any meeting by a failure to give proper notice or a reasonable attempt to give proper notice to such member.

C.

Special meetings. Nothing in Subsection A shall preclude the calling of a special meeting or dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of §§ 19.81 and 19.98, Wis. Stats.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Minutes to be kept. Every board, commission and committee shall keep a record of the minutes of its proceedings and shall cause a signed copy thereof to be filed by its secretary with the Town Clerk within one week of the meeting date.

§ 23-5. Residency requirement.

No person not a legal resident of the Town of McMillan shall be appointed in a voting capacity to any Town board, committee or commission. Any voting board, commission or committee member who moves from the Town shall immediately be removed from such board, commission or committee.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 54. ELECTIONS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as §§ 2-1-3, 2-1-4 and 2-1-5 of the 2000 Code. Amendments noted where applicable.]

§ 54-1. Voter registration.

A.

Pursuant to the provisions of § 6.27 of the Wisconsin Statutes, the Town of McMillan elects that registration shall be required for all primaries and elections in the Town of McMillan.

B.

The Town Clerk of the Town of McMillan shall forthwith certify this action to the County Clerk and to the Secretary of State.

§ 54-2. Polling place.

The polling place serving all wards in the Town of McMillan shall be the McMillan Town Hall.

§ 54-3. Election poll hours; workers; wards.

A.

Poll hours. The voting polls in the Town of McMillan, Marathon County, Wisconsin, shall be open from 7:00 a.m. to 8:00 p.m. for all elections.¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

B.

Number of election officials.

(1)

The Town Clerk shall be authorized to employ election officials (poll workers and tabulators) for each election sufficient to conduct said election effectively, the minimum number of election officials necessary at any one time for any one election being three. It is further authorized that two sets of election officials may be used at different times at any one election with the total number of election officials working at one time to be an odd number.

(2)

The Town Clerk shall have the power to limit or reduce the number of election officials. The Town Clerk shall determine in advance of each election whether the number of election officials for such election should be reduced from the number prescribed by the Wisconsin Statutes, and if such a reduction is so determined, the Town Clerk shall further redistribute duties among the remaining officials.

C.

Tabulators. The Town Clerk may deem necessary from time to time to select and employ tabulators for certain elections due to the high projected voter turnout. Tabulators shall assist and be under the direction of the election officials after the close of the polls. The Town Clerk shall select and employ tabulators, if needed, for any election.

D.

Wards.

(1)

Wards may be established in the Town of McMillan for election purposes. However, there are various elections where Town electors from more than one ward vote for offices that are identical to those in other wards, and the Town Board has determined

that tabulating vote totals by ward requires more time by election officials and occasionally requires more inspectors to work at elections. Thus, the Town Board has determined that there is no administrative advantage to having vote totals by ward when voting for common offices.

(2)

For the reasons stated above, the Town Board has determined that wards will be combined for vote reporting purposes for those wards voting for common office(s).

Chapter 58. EMERGENCY GOVERNMENT

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 5, Ch. 4, of the 2000 Code; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Emergency services — See Ch. **61**.

§ 58-1. Adoption of Joint Action Ordinance.

Joint Action Emergency Government Ordinance No. O-26-93 of the Board of Supervisors of Marathon County providing for a county-municipal joint action emergency government plan of organization was adopted by said County Board on the 21st day of December 1993. A copy of County Ordinance No. O-26-93 is on file with the Town Clerk and made a part hereof by reference and is hereby ratified and accepted by the Town of McMillan. This ratification and acceptance of the Joint Action Ordinance shall constitute a mutual agreement between the Town and the County of Marathon.

§ 58-2. Emergency Government Director.

The County/Municipal Emergency Services Coordinator appointed and employed by the Marathon County Board as provided in Joint Action Emergency Government Ordinance No. O-26-93 is hereby designated and appointed Emergency Government Director for the Town of McMillan, subject to the conditions and provisions as set forth in the Wisconsin Statutes and the Marathon County Joint Action Ordinance.

Chapter 61. EMERGENCY SERVICES

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Emergency government — See Ch. **58**.

Finance and taxation — See Ch. **75**.

Fires and fire prevention — See Ch. **295**.

061a Fire Department Service Fees 

Article I. Fire Department

[Adopted 3-13-2000 as § 5-1-1 of the 2000 Code]

§ 61-1. General authority.

A.

The Town Board shall provide for fire protection for the Town of McMillan. Fire protection for the Town, or any portion of the Town, may be provided in any manner, including:

(1)

Establishing a Town fire department.

(2)

Joining with another town, village, or city to establish a joint fire department. If the Town Board establishes a joint fire department with a village under § 61.65(2)(a)3, Wis. Stats., the Town Board shall create a joint board of fire commissioners with the village under § 61.65(2)(b)2, Wis. Stats.

(3)

Contract with any person.

(4)

Utilizing a fire company organized under Ch. 213, Wis. Stats.

B.

The Town Board may provide for the equipping, staffing, housing, and maintenance of fire protection services. The Town of McMillan has entered into intergovernmental agreements with area units of government to provide fire protection services.

§ 61-2. Funding.

The Town Board may:

A.

Appropriate money to pay for fire protection in the Town.

B.

Charge property owners a fee for the cost of fire calls made to their property.

C.

Levy taxes on the entire Town to pay for fire protection.

D.

Levy taxes on property served by a particular source of fire protection, to support the source of protection.

§ 61-3. Recognition of organization; authorization.

A.

The existing fire organization is hereby officially recognized as the McMillan Fire Department and the duties of firefighting and the prevention of fires in the Town of McMillan are delegated to such department. The organization and internal regulation shall be governed by the provisions of this article and by such bylaws adopted by the Department and approved by the Town of McMillan.

B.

The McMillan Fire Chief is hereby authorized and directed to develop bylaws for the control, management, and government, and for the regulation of business and proceedings of the Department, which bylaws, after adoption by a two-thirds vote of members present at the meeting, shall not become effective and operative until presented to an approved by the Town of McMillan Board. Amendments shall be adopted in the same manner.

C.

The McMillan Fire Chief is hereby authorized and directed to develop Standard Operation Procedures and Guidelines for further control and management of day-to-day operations and emergency operations.

D.

The Town of McMillan Board shall appropriate funds through the annual budget process to provide for the operation and for apparatus and equipment purchases it may deem expedient and necessary to maintain efficiency and properly protect life and property.

E.

The officers and members of the McMillan Fire Department may receive compensation from the Town of McMillan for services provided.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 61-4. Financial accounts.

The Town of McMillan Board authorizes the McMillan Fire Department to have a separate checking account for monies received through fund-raising, donations, etc. This account will be called the "McMillan Fire Department Account."^[2]

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: See also § 75-20, Fire Department volunteer funds.

§ 61-5. Scope of operation for non-fire-related activities.

A.

The McMillan Town Board authorizes the McMillan Fire Department to conduct or participate in water rescue, first responder calls, vehicle accidents, parades or public function, traffic control on any village, township, city, county or state roads, aid other area municipalities during natural disasters; conduct or assist training classes for other

departments, first responder or any other training the McMillan Fire Department officers feel its members are qualified to teach and conduct or assist other agencies in searches for lost or missing individuals or items.

B.

The McMillan Town Board further authorizes the McMillan Fire Department to assist the Town of McMillan governing board in any function or emergency the Board deems appropriate.

C.

The McMillan Town Board further authorizes the Fire Chief or other officer in charge of the Department, to dispatch Fire Department vehicles, equipment or firefighters to respond to such other calls and to engage in such other emergency or nonemergency activities, as the Fire Chief or said officer deems appropriate.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 61-6. Job descriptions.

Job descriptions for positions in the Fire Department are on file with the Town Clerk.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 61-7. Fees.

The McMillan Fire Department Service Fees shall be adopted and amended by resolution.^[2]

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: The schedule of service fees is included as an attachment to this chapter.

Article II. Ambulance Service

[Adopted 3-13-2000 as § 5-1-2 of the 2000 Code]

§ 61-8. Operation of ambulance services.

The Town Board shall contract for or operate and maintain ambulance services unless such services are provided by another person. The Town Board may purchase equipment for medical and other emergency calls.

Chapter 67. ETHICS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 2, Ch. 6, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. **23**.

Officers and employees — See Ch. **132**.

Town Board — See Ch. **176**.

§ 67-1. Purpose.

A.

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established in this chapter a Code of Ethics for all Town of McMillan officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Town, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the Town.

B.

The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Town of McMillan and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Town. The Town Board believes that a Code of Ethics for the guidance of elected and appointed officials and employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the citizens of this Town in their elected and appointed officials and employees. The Town Board hereby reaffirms that each elected and appointed Town official and employee holds his or her position as a public trust, and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this Ethics Code and such rules and regulations as may be established are hereby declared to be in the best interests of the Town of McMillan.

§ 67-2. Definitions.

The following definitions shall be applicable in this chapter:

ANYTHING OF VALUE

Any gift, favor, loan, service or promise of future employment, but does not include reasonable fees and honorariums, or the exchange of seasonal, anniversary or customary gifts among relatives and friends.

BUSINESS

Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.

FINANCIAL INTEREST

Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

PERSONAL INTEREST

The following specific blood or marriage relationships:

A.

A person's spouse, mother, father, child, brother or sister; or

B.

A person's relative by blood or marriage who receives, directly or indirectly, more than half of his support from such person or from whom such person receives, directly or indirectly, more than half of his support.^[1]

PUBLIC EMPLOYEE

Any person excluded from the definition of a public official who is employed by the Town.

PUBLIC OFFICIAL

Those persons serving in statutory elected or appointed offices provided for in Chapter 60 of the Wisconsin Statutes, and all members appointed to boards, committees and commissions established or appointed by the Chairperson and/or Town Board pursuant to this Town Code, whether paid or unpaid.

SIGNIFICANT INTEREST

Owning or controlling, directly or indirectly, at least 10% or \$5,000 of the outstanding stock of any business.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

§ 67-3. Statutory standards of conduct.

There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any Code of Ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Code of Ethics and shall apply to public officials and employees whenever applicable:

A.

Section 946.10, Bribery of public officers and employees.

B.

Section 946.11, Special privileges from public utilities.

C.

Section 946.12, Misconduct in public office.

D.

Section 946.13, Private interest in public contract prohibited.

§ 67-4. Responsibility of public office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and carry out impartially the laws of the nation, state and Town, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office, regardless of personal considerations, recognizing that the public interest must be their prime concern.

§ 67-5. Dedicated service.

A.

Officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

B.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

C.

Members of the Town staff are expected to follow their appropriate professional code of ethics. Staff members shall file a copy of such professional ethics codes with the Town Clerk. The Town Clerk may notify the appropriate professional ethics board of any ethics violations involving Town employees covered by such professional standards.

§ 67-6. Fair and equal treatment.

A.

Use of public property. No official or employee shall use or permit the unauthorized use of Town-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as Town policy for the use of such official or employee in the conduct of official business, as authorized by the Town Board or authorized board, commission or committee.

B.

Use of Town stationery. Copies of any correspondence written on Town stationery shall be filed with the Town Clerk or his designee.

C.

Obligations to citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other

citizen. No official or employee shall use or attempt to use his or her position with the Town to secure any advantage, preference or gain over and above his or her rightful remuneration and benefits, for himself or herself or for a member of his or her immediate family.

D.

Political contributions. No official shall personally solicit from any Town employee, other than an elected official, a contribution to a political campaign committee for which the person subject to this chapter is a candidate or treasurer.

E.

Failure to follow Town Board directive. No Town official or employee, whether elected or appointed, shall deliberately, by individual action, direct a member of the public or a party under contract with the Town to take an action or perform an act that is contrary to an official Town policy adopted by the Town Board.

§ 67-7. Conflict of interest.

A.

Financial and personal interest prohibited.

(1)

No official or employee of the Town, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest, contrary to the provisions of this chapter or which would tend to impair independence of judgment or action in the performance of official duties.

(2)

Any member of the Town Board who has a financial interest or personal interest in any proposed legislation before the Town Board shall disclose on the records of the Town Board the nature and extent of such interest; such official shall not participate in debate or vote for adoption or defeat of such legislation. If the matter before the Board involves a member's personal interest with persons involved, the member may participate in debate or discussion and vote on the matter following disclosure, unless an ordinance or contract is involved; if an ordinance or contract is involved, such official shall not participate in debate or discussion and vote on the matter.

(3)

Any nonelected official, other than a Town employee, who has a financial interest or personal interest in any proposed legislative action of the Town Board or any board, commission or committee upon which the official has any influence or input or of which the official is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Town Board or the appropriate board, commission or committee the nature and extent of such interest. Such official shall not participate in debate or discussion or vote for adoption or defeat of such legislation.

(4)

Any Town employee who has a financial interest or personal interest in any proposed legislative action of the Town Board or any board, commission or committee upon which the employee has any influence of input, or of which the employee is a member, that is a make to recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Town Board or the appropriate board, commission or committee the nature and extent of such interest.

B.

Disclosure of confidential information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall such information be used to advance the financial or other private interests of the official or employee or others.

C.

Gifts and favors.

(1)

No official or employee, personally or through a member of his immediate family, may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could be expected to influence the employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.

(2)

No official or employee, personally or through a member of his/her immediate family, shall accept any gift, whether in the form of money, service, loan, thing or promise, from any person which may tend to impair his/her independence of judgment or action in the performance of his/her duties or grant in the discharge of his/her duties any improper favor, service or thing of value.

(3)

An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a Town official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This subsection further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

(4)

Gifts received by an official or employee or his/her immediate family under unusual circumstances shall be referred to the Town Board within 10 days of receipt for recommended disposition. Any person subject to this chapter who becomes aware that he/she is or has been offered any gift, the acceptance of which would constitute a violation of this subsection, shall, within 10 days, disclose the details surrounding said offer to the Town Board. Failure to comply with this reporting requirement shall constitute an offense under this chapter.

D.

Representing private interests before Town agencies.

(1)

Nonelected Town officials and employees shall not appear on behalf of any private person (other than himself or herself, his or her spouse or minor children) before any Town agency, board, or commission or the Town Board if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation.

(2)

Elected Town officials may appear before Town agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. However, the disclosure requirements of Subsection A above shall be applicable to such appearances.

E.

Ad hoc committee exceptions. No violation of the conflict of interest restrictions of this section shall exist, however, where an individual serves on a special ad hoc committee charged with the narrow responsibility of addressing a specific issue or topic in which that individual, or the employer or a client of that individual, has an interest so long as the individual discloses to the Town Board that such interest exists.

F.

Contracts with the Town. No Town official or employee who, in his capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion on his part shall enter into any contract with the Town unless, within the confines of § 946.13, Wis. Stats., the contract is awarded through a process of public notice and competitive bidding or the Town Board waives the requirement of this subsection after determining that it is in the best interest of the Town to do so. The provisions of this subsection shall not apply to the designation of a public depository of public funds.

§ 67-8. Advisory opinions.

Any questions as to the interpretation of any provisions of this Code of Ethics shall be referred to the Town Attorney. Such requests shall be as detailed as possible and shall be made in writing. Advisory requests and opinions shall be kept confidential, except when disclosure is authorized by the requester, in which case the request and opinion may be made public.

§ 67-9. Sanctions.

A determination that an official's or employee's actions constitute improper conduct under the provisions of this chapter may, in the case of an employee, constitute a cause of suspension, removal from office or employment or other disciplinary action.

Sanctions, including any disciplinary action, that may affect employees covered under a labor agreement will be consistent with the terms and conditions set forth in the applicable labor agreement. In the case of an elected or appointed Town official, the Town Board, upon a review of the facts with the individual, may officially reprimand the official or remove such official from certain committee assignments or responsibilities.

§ 67-10. Violations and penalties.

Violation of this Code of Ethics shall be subject to a forfeiture of not less than \$100 nor more than \$1,000.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 72. FEES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 1, Ch. 3, of the 2000 Code; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Subsequent amendments noted where applicable.]

§ 72-1. Fee schedule.

Section	Description	Fee
12-1-4	Reservation of park pavilion	\$100 per day
23-2I	Special Plan Commission meeting	\$100
75-13	Statement of real property status	\$20
75-16	Fee for insufficient funds checks	\$25
159-4F	Copying public records	\$0.25
214-3A	Neutered/spayed dog license	\$5
214-3A	Unneutered/unspayed dog license	\$10
214-3B	Kennel license (12 or fewer dogs)	\$50
214-3B	Each additional dog in excess of 12	\$5
214-4	Dog license late fee	\$5
332-5A	"Class A" fermented malt beverage retailer's license	\$50
332-5B	"Class B" fermented malt beverage retailer's license	\$50
332-5C	Temporary "Class B" fermented malt beverage license	\$10
332-5D	Temporary "Class B" wine license	\$5
332-5E	"Class A" intoxicating liquor retailer's license	\$50
332-5F	"Class B" intoxicating liquor retailer's license	\$50

Ch. 223 Mass Public Assemblies

Section	Description	Fee
223-15A	Gatherings of 500 to 650 (one day or more event)	No fee
223-15B	Gatherings of 650 to 2,500	\$100
223-15C	Gatherings of 2,500 to 5,000	\$200
223-15D	Gatherings of over 5,000	\$500
237-9	Building code and signage fees	Per separate schedule
282-3	Explosive materials/blasting	\$50 annually
282-4	Temporary explosives permit	\$10 per day
299-1	Fireworks license	\$10
332-11A	Transfer of intoxicating liquor and fermented malt beverages license	\$10
332-19D	Operator's license (regular or provisional)	\$10
427-5D	Sign permit	\$0.25 per square foot of sign area (\$25 minimum)
461-4C	Transient merchants registration and investigation	\$100 per year

Chapter 75. FINANCE AND TAXATION

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

Article I. Finance

[Adopted 3-13-2000 as Title 3, Ch. 1, of the 2000 Code]

§ 75-1. Fiscal management.

The Town Board of the Town of McMillan has the specific authority, powers and duties pursuant to §§ 60.10, 60.20, 60.22, 60.23, 60.40, 60.41, 60.42, 60.44, 60.45, 60.46, 60.47, 65.90, 66.0601, 66.0603, 66.0703, 66.0721, and 74.12 and Chapters **67** and 70, Wis. Stats., to manage, supervise and direct the fiscal operations of the Town of McMillan and to develop, maintain and implement a fiscal management system for the Town.

§ 75-2. Preparation and adoption of budget.

A.

Fiscal year; annual budget. The Town of McMillan fiscal year is the calendar year. The Town budget shall be adopted annually.

B.

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

C.

Estimates of budget. Each elected officer and each appointed officer responsible for a department, office, special office, committee, commission, agency, board or other special government unit of the Town of McMillan shall file with the Town Clerk, by a date established by the Town Clerk of the Town of McMillan, the following for their department, office, special office, committee, commission, agency, board or other special government unit of the Town:

(1)

Prior year's receipts, revenues, disbursements and expenditures.

(2)

Current year's receipts, revenues, disbursements and expenditures.

(3)

Estimated receipts, revenues, disbursements and expenditures for next year.

D.

Elements of budget. Each budget prepared by and approved by the Town Board shall include the following:

(1)

All existing indebtedness.

(2)

All anticipated revenue from all sources for ensuing year.

(3)

All proposed appropriations for departments, committees, commissions and boards, active or reserve accounts, for next year.

(4)

All actual revenues and expenditures for preceding year.

(5)

All actual revenues and expenditures for not less than six months of current year.

(6)

All estimated revenues and expenditures for the balance of the year.

(7)

All anticipated unexpended or unappropriated balances and surpluses.

(8)

Such other information as may be required by the Town Board and state law.

E.

Elements in budget summary. Each budget summary prepared by and approved by the Town Board shall include the following:

(1)

All expenditures by major expenditure category for the proposed budget, the budget in effect and the budget of the preceding year.

(2)

All revenues by major revenue source for the proposed budget, the budget in effect and the budget of the preceding year.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

Any financial source and use not identified in Subsection **E(1)** and **(2)** above.

(4)

All beginning and year-end balances for the proposed budget, the budget in effect and the budget of the preceding year.

F.

Copies of budget. The Town shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

G.

Hearing. The Town Board shall conduct the budget hearing required under § 65.90, Wis. Stats.

H.

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

I.

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

§ 75-3. Town funds to be spent in accordance with appropriation.

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

§ 75-4. Annual financial statement.

The Town Board annually shall prepare a statement of the financial condition of the Town and present the statement to the Annual Town Meeting. In preparing the statement, the Town Board may provide for assistance by any person. The statement shall include the previous year's revenues and expenditures and the current indebtedness of the Town.

§ 75-5. Finance book.

The Town Treasurer shall maintain a finance book under § 60.33(3), Wis. Stats.

§ 75-6. Financial audits.

The Town Board shall provide for financial audits under § 66.0605, Wis. Stats.

§ 75-7. Claims against Town.

A.

The Town Board shall develop and maintain a policy and plan, pursuant to §§ 60.44 and 893.80, Wis. Stats., to manage and control any legal claims against the Town of McMillan, its officers, its employees and its agents. Claims for money against the Town or against officers, officials, agents or employees of the Town arising out of acts done in their official capacity shall be filed with the Town Clerk as provided under § 893.80(1d)(b), Wis. Stats. The Town Clerk shall immediately contact the Town Chairperson regarding the claims. The Town Chairperson shall arrange any appropriate and necessary meeting of the Town Board for actions pursuant to §§ 60.44 and 893.80, Wis. Stats., to allow or disallow any claim. The Town Chairperson shall, at his or her discretion, contact the Town Attorney regarding the claim prior to the meeting of the Town Board.

B.

Routine claims (e.g., utility bills, etc.) may be paid by the Town Clerk when there are fiscal benefits to the Town.

C.

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

§ 75-8. Disbursements from treasury.

Disbursements from the Town treasury shall be made under § 66.0607, Wis. Stats. No claim, account or demand for payment against the Town shall be paid until a voucher has been filed with or prepared by the Town Clerk. Each check representing a disbursement or transfer of Town funds must be signed by the Town Clerk/Town Treasurer. Each check must also be signed by the Town Chairperson.

§ 75-9. Facsimile signatures.

In lieu of the personal signatures of the Town Clerk, Town Treasurer and Chairperson, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Town Board, but the use of the facsimile signature shall not relieve such official from any liability to which he/she is otherwise subject, including the unauthorized use thereof. In the absence of the Clerk, Treasurer or Chairperson, a designated Town Supervisor may provide an authorized signature.^[1]

[1]:

Editor's Note: Original Secs. 3-1-10, Public depository, and 3-1-11, Temporary investment of funds not immediately needed, which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 75-10. Public contracts and competitive bidding.

A.

Definitions. As used in this section, the following terms shall have the meanings indicated:

PUBLIC CONTRACT

A contract for the construction, execution, repair, remodeling or improvement of any public work or building or for the furnishing of materials or supplies with an estimated cost of more than \$5,000 but not more than \$25,000.^[1]

RESPONSIBLE BIDDER

A person who, in the judgment of the Town Board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Advertisement for bids. Except as provided in Subsections **D** and **E**, the Town may not enter into a public contract unless the Town Board, or a Town official or employee designated by the Town Board, advertises for proposals to perform the terms of the public contract by publishing a Class 2 notice under Ch. 985, Wis. Stats. The Town Board may provide for additional means of advertising for bids. Pursuant to the definition of "public contract" in Subsection **A** above, this advertising requirement does not apply to the purchase of equipment; it applies only to the purchase of materials or supplies expected to cost more than \$5,000 but not more than \$25,000.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Contracts to lowest responsible bidder. The Town Board shall let a public contract for which advertising for proposals is required under Subsection **B** to the lowest responsible bidder. Section 66.0901, Wis. Stats., applies to public contracts let under this section.

D.

Contracts with governmental entities. This section does not apply to public contracts entered into by a Town with a municipality, as defined under § 66.0301(1)(a), Wis. Stats.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

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

F.

Application to work by Town. This section does not apply to any public work performed directly by the Town.

§ 75-11. Receiving money; receipts.

A.

The Town Treasurer shall not receive any money into the treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefor in the manner specified by the Town Board.

B.

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

§ 75-12. Duplicate Treasurer's bond eliminated.

The Town of McMillan elects not to give the bond on the Town Treasurer provided for by § 70.67(1), Wis. Stats.

§ 75-13. Statement of real property status.

The Town Clerk and Town Treasurer are authorized to prepare a statement of real property status form to be used to provide information often requested for transfers of real property, such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, contemplated improvement, floodplain status, violation of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. The

Town Clerk or Town Treasurer shall collect a fee, as prescribed in Chapter **72**, Fees, payable at the time a request for compiling such information on said form is submitted. The Town Clerk and Town Treasurer shall have a minimum of three business days during the regular work week to satisfy such requests. Neither the Town of McMillan nor its officials assume any liability when providing this service.

§ 75-14. Liability of Town for acts of agents.

No agent of the Town of McMillan having authority to employ labor or to purchase materials, supplies or any other commodities may bind the Town or incur any indebtedness for which the Town may become liable without approval of the Town Board. Each such employment or purchase order shall be drawn against a specific appropriation, the money for which shall be available in the Town treasury and not subject to any prior labor claims or material purchase orders at the time when such employment is negotiated or purchase order drawn. The Town Clerk shall keep a record of such employment and purchase orders and shall charge them against the proper appropriation.

§ 75-15. Accounts receivable billing procedures.

Billings by the Town may be paid within 30 days after billing without interest. Thereafter, interest may be charged at the rate of 1 1/2% per month or any fraction thereof, until the following 15th day of November. Bills not paid on or before the first day of November may have added to the total amount due 1 1/2% of said charges and shall be entered on the tax roll as a special charge and become a lien upon real estate.¹¹

[1]:

Editor's Note: Original Sec. 3-1-18, Annual audits, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 75-16. Fee for returned checks; reimbursement of collection costs.

A.

There shall be a fee in accordance with Chapter **72**, Fees, for processing checks made payable to the Town that are returned because of insufficient funds in the account in question.

B.

Collection costs and attorney fees shall be added to the principal amounts of unpaid bills owed to the Town that are placed with collection agencies.¹¹

[1]:

Editor's Note: Original Sec. 3-1-20, Delinquent personal property taxes, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 75-17. Policy for public deposits and investments.

A.

Purpose. It is in the interest of the Town of McMillan to adopt a policy to ensure continuous prudent deposits and investments of available Town funds. The Town Board of the Town of McMillan establishes the following policies in the public interest for the deposit and investment of available Town funds.

B.

Public depositories.

(1)

Depositories. The Town Board shall, by ordinance or resolution, designate one or more public depositories, organized and doing business under the laws of this state or federal law, and located in Wisconsin, in which the Town Treasurer shall deposit all public monies received by her/him.

(2)

Limitations. The resolution or ordinance designating one or more public depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of § 66.0603(1m), Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under § 34.07, Wis. Stats., by the public depository to secure the repayment of such deposits. Not more than \$500,000 shall be deposited in any one public depository, unless specifically authorized by the Town Board.

(3)

Deposits. The Town Treasurer shall deposit public monies in the name of the Town of McMillan in such public depositories designated by the Town Board and subject to the limitations hereinabove set forth.

(4)

Withdrawals. Withdrawals or disbursements by the Town Treasurer of monies deposited in a public depository shall be made as provided by § 66.0607(1) to (5), Wis. Stats. The Town Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money transfer techniques as set forth in § 66.0607(3m), Wis. Stats.

C.

Investments.

(1)

Management. Subject to the provisions of this policy, the Town Treasurer shall have control of and discretion in the investment of all Town funds that are not immediately needed and are available for investment.

(2)

Intent. It is the intent of the Town Board that the Town Treasurer utilize a wise and prudent cash management system within the level of her/his expertise in such a manner to ensure maximum investment earnings, while at the same time be able to respond promptly to authorized expenditures. Safety, liquidity and yield will be the prime requisites for the investment of Town funds.

(3)

Scope. This policy is limited in its application to funds which are not immediately needed and are available for investment. Other funds, the investment of which is subject to special federal and/or state laws and regulations, shall be invested in accordance with such laws and regulations to the extent they may be inconsistent with the provisions of this policy.

(4)

Responsibility. In exercising her/his investment responsibilities, the Town Treasurer shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, having the same resources, and familiar with like matters in the management of a similar activity, with a like purpose, would exercise.¹⁴

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(5)

Investments. The investment of Town funds shall be in accordance with § 34.01(5) and 66.0603(1m), Wis. Stats., as follows:

(a)

Certificates of deposit. Town funds may be invested in certificates of deposit maturing within one year or less from the date of investment issued by any banks, savings and loan associations or credit unions which are authorized to transact business in the State of Wisconsin. The financial institutions must have been designated as a public depository of the Town by resolution or ordinance of the Town Board.

(b)

Government bonds and securities. Town funds may be invested in United States government bonds or securities which are direct obligations of or guaranteed as to principal and interest by the federal government and bonds or securities which are obligations of any agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. The securities must be purchased through financial institutions authorized to conduct business in the State of Wisconsin and placed in safekeeping in a segregated account in the Town's name at any designated public depository or approved financial institution.

(c)

Government investment pool. Town funds may be invested in the Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.

(d)

Repurchase agreements. Town funds may be invested in repurchase agreements, in financial institutions authorized to conduct business in the State of Wisconsin. Repurchase agreements can only be made in securities which are direct obligations of or guaranteed as to principal and interest by the federal government and securities which are obligations of an agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal

government. Securities purchased by a repurchase agreement must be placed in safekeeping in a segregated account in the Town's name at any designated public depository or approved financial institution.

(e)

Wisconsin Investment Trust. Town funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.

(f)

Savings deposit. Town funds may be temporarily invested in savings deposits.

(g)

Securities. The Town Treasurer may invest in private securities which are senior to, or on a parity with, a security of the same issuer which is rated highest or second highest by Moody's Investors Service, Standard & Poor's Corporation or other similar nationally recognized rating agency.

D.

Miscellaneous.

(1)

Liability. Notwithstanding any other provision of law, the Town Treasurer who deposits public monies in any public depository, in compliance with § 34.05, Wis. Stats., is, under the provisions of § 34.06, Wis. Stats., relieved of any liability for any loss of public monies which results from the failure of any public depository to repay to the public depositor the full amount of its deposits, thus causing a loss as defined in § 34.01(2), Wis. Stats.

(2)

Definitions. Words or phrases shall, insofar as applicable, have the meaning set forth in § 34.01, Wis. Stats., as amended.

(3)

Conflicts. This section is enacted in accordance with the provisions of Ch. 34 and §§ 66.0603 and 66.0607, Wis. Stats. In case of conflict, the state laws shall prevail.

§ 75-18. Alternate claim procedure for refunds of tax payments in excess of tax bill amounts.

A.

Purpose and intent. It is the declared intent of this section that tax payments made in excess of the tax bill amounts shall be refunded pursuant to the procedures established under this section within 15 business days of the payment. Further, it is the declared intent that this policy shall be in full force and effect upon adoption by the Town Board, with the purpose of complying with § 74.03(2), Wis. Stats.

B.

Authority. This section is adopted pursuant to the authority granted to town boards under § 60.44(2), Wis. Stats., to enact an alternative system for approving financial claims against the Town which are in the nature of bills and vouchers.

C.

Required procedures of Treasurer upon payment of excess amount over tax bill amount. Pursuant to § 60.34, Wis. Stats., upon receipt of tax payment in excess of the tax bill, the Town Treasurer shall deposit as soon as practicable all payments in the name of the Town in public depositories designated by the Town Board. Upon verification by the Town Treasurer that the payment as deposited has cleared and not been returned for insufficient funds, but not later than 10 business days after depositing, the Town Treasurer shall record in writing the name and mailing address of the taxpayer for whom a refund in excess of the tax bill amount is due, the amount of the refund in excess of the tax bill, the date payment was received, and a statement that the payment has cleared and not been returned as insufficient funds.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Required procedure upon notification of excess payment of tax bill amount.^[2]

(1)

Upon concluding that a taxpayer has made a tax payment in excess of the tax bill amount, the Town Clerk shall issue the normal voucher or authorization for payment of the refund of the excess amount over the tax bill amount upon finding the following:

(a)

The funds are available to pay the bill, assuming the tax payment has cleared and has not been returned as is evidenced by the Treasurer's notice.

(b)

The Town Board has authorized the refund of excess tax payments as established by the adoption of this section.

(c)

The refund is due in the amount noticed by the Town Treasurer as a tax payment in excess of the amount of the tax bill.

(d)

The refund is a valid claim against the Town, being a payment in excess of the tax bill amount.

(2)

Further, the Town Clerk shall prepare monthly and file with the Town Board a list of claims paid under this procedure, listing the amount of the claims, the date paid, the name of the taxpayer/claimant, and that the payment was a payment of a refund for excess tax payment.

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Issuance of disbursement from local treasury. Upon approval of a voucher (or proper authorization) by the Town Clerk under the procedures listed in Subsection D, a refund check payable to the taxpayer/claimant named in the voucher or authorization and in

the amount approved shall be written by the Town Clerk and countersigned as required by § 66.0607, Wis. Stats.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Mailing or delivery of refund check to taxpayer/claimant. Upon issuance of the proper countersigned refund check, pursuant to the procedures in this section, the refund check shall be delivered to the taxpayer/claimant or mailed to the last known mailing address of the taxpayer/claimant by the Treasurer.^[4]

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 75-19. Confidentiality of income and expense information.

Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to § 70.47(7)(af), Wis. Stats., or any successor statute thereto, then 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 discharge 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 § 70.47(7)(af), unless a court determines that it is inaccurate, is, per § 70.47(7)(af), not subject to the right of inspection and copying under § 19.35(1), Wis. Stats.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 75-20. Fire Department volunteer funds.

[Added 5-14-2012; amended 5-13-2013]

A.

Title and purpose. This section is entitled the "Town of McMillan's Fire Department Volunteer Funds Ordinance." The purpose of this section is to authorize the Town Fire Department to hold volunteer funds in the name of the Town of McMillan Fire Department, hereinafter "McMillan Fire Department."

B.

Authority. The Town Board of the Town of McMillan, Marathon County, Wisconsin, has the specific authority under § 66.0608, Wis. Stats., to adopt this section.

C.

Adoption of section. This section, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, authorizes the McMillan Volunteer Fire Department to hold volunteer funds in the name of the McMillan Fire Department as provided in this section.

D.

Definitions. As used in this section, the following terms shall have the meanings indicated:

PUBLIC DEPOSITORY

A federal or state credit union, federal or state savings and loan association, state bank, savings and trust company, federal or state savings bank, or national bank in this state that receives or holds any public deposits or the local government, pooled investment fund.

VOLUNTEER FUNDS

Funds of the Town of McMillan that are raised by officers, employees and agents of the McMillan Fire Department, by volunteers of the McMillan Fire Department, or by donation to the McMillan Fire Department for the benefit of the McMillan Fire Department.

E.

Accounts. The Town Treasurer, the Town Fire Chief, the Town Assistant Fire Chief and the Fire Department Treasurer of the McMillan Fire Department are authorized to deposit the volunteer funds of the McMillan Fire Department, in accordance with the guidelines set forth by the public depository approved by the Town Board, in an account in the name of the McMillan Fire Department. The McMillan Fire Department, through the Fire Chief and the Assistant Fire Chief, shall have exclusive control over the deposit, disbursements and expenditures from the cited account of volunteer funds of the McMillan Fire Department, subject to Subsection **F**.

F.

Limitations on accounts.

(1)

Deposits.

(a)

The type of funds that may be deposited into the account described in Section E is restricted to: funds of the Town of McMillan that are raised by employees of the McMillan Fire Department, by volunteers of the McMillan Fire Department, or by donation to the McMillan Fire Department, all for the benefit of the McMillan Fire Department.

(b)

Funds must be deposited by the named officials in a timely manner with all monies accounted for with respect to donor's name and amount. Monies received must be, at minimum, deposited weekly.

(2)

Withdrawals.

(a)

The maximum amount of withdrawals as disbursements and expenditures of volunteer funds from the account described in Subsection **E** that may be made, except as noted in Subsection **F(2)(b)[3]**, is limited to \$1,000 at a time.

(b)

Disbursements and expenditures.⁽¹⁾

[1]

Withdrawals as disbursements and expenditures may be made by the noted authorized persons in Subsection E for any purpose that promotes the ability of the McMillan Fire Department to provide services for which it is organized, which such services are to be determined by a majority vote of the current members of the McMillan Fire Department. The declaration of services to be provided by the McMillan Fire Department shall be in writing and timely provided to the Town Clerk, along with any later declaration amendments.

[2]

Disbursements and expenditures made out to the McMillan Fire Department volunteer fund must be presented by the authorized persons for payment to the Town Clerk. These disbursements and expenditures will be paid from the Town of McMillan's general checking account by the Town Treasurer with a timely transfer by the authorized persons in Subsection E from the McMillan Fire Department volunteer fund to the Town of McMillan's general checking account to reimburse the Town of McMillan treasury for the disbursements and expenditures made.

[3]

Any disbursement and expenditures to be made by the McMillan Fire Department in excess of \$1,000 must be first presented in writing to the Town Board of the Town of McMillan for its written approval.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

The McMillan Fire Department is subject to the following reporting and auditing requirements:

(a)

The Town of McMillan Fire Chief shall timely provide the Town Board and the Town Clerk with quarterly financial statements of the McMillan Fire Department's volunteer funds as of the end of March, June, September and December of each calendar year. The statements by the Town of McMillan Fire Chief shall be provided within 30 calendar days of the end of the quarter. The statements shall include a detailed itemization of all receipts, disbursements, expenditures, and the balance on hand at the end of the quarter. The source of all funds and identity of the payee for each disbursement and expenditure shall be set forth. The Town Board of the Town of McMillan reserves the right at any time to have ordered an audit of the McMillan Fire Department accounts and statements, including, if necessary, a certified audit performed by a certified public accountant (CPA), with such audit at the expense of the Town of McMillan. The McMillan Fire Department, its officers, agents and employees, shall timely and fully cooperate in any such audit.

(b)

The Town of McMillan Fire Chief shall timely provide to the Town Clerk for the Town Board of the Town of McMillan with a financial statement of the annual McMillan Fall

Festival specifying the total detailed operating expenses and revenues generated by the McMillan Fire Department, along with disbursements and expenditures to fund and to operate the event within 30 calendar days after the annual McMillan Fall Festival.

(c)

The McMillan Fire Department accounts shall be included in the annual audit of the Town of McMillan funds and shall be audited in the same manner as any other Town of McMillan funds.

(d)

The McMillan Fire Department, by its Town Fire Chief, in any matters involving the McMillan Fire Department, its officers, employees or agents, shall timely provide to the Town Board of the Town of McMillan in writing the name of any person, company, corporation, association, agent, or other entity, including any local fire association, or other related entity that is not an authorized employee or agent of the Town of McMillan or the McMillan Fire Department, that purports to represent or to act in any representation capacity for the Town of McMillan or for the McMillan Fire Department, without any such alleged or real written authority or agency from either the Town of McMillan, its Town Board or the McMillan Fire Department.

(e)

The McMillan Fire Department Fall Festival Account will be totally sustainable yearly for the Fall Festival.

Article II. Special Assessments

[Adopted 3-13-2000 as Title 3, Ch. 2, of the 2000 Code]

§ 75-21. Town Board may levy special assessments.

A.

The Town of McMillan, by resolution of its Town Board, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of the special assessments.¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Town Board.

§ 75-22. Resolution and report required.

A.

Prior to making any such special assessments, the Town Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, and the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under § **75-25** of this article and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

B.

The report required by Subsection **A** shall consist of:

(1)

Preliminary or final plans and specifications.

(2)

An estimate of the entire cost of the proposed work or improvement.

(3)

An estimate as to each parcel of property affected of:

(a)

The assessment of benefits to be levied.

(b)

The damages to be awarded for property taken or damaged.

(c)

The net amount of such benefits over damages or the net amount of such damages over benefits.

(4)

A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimated required under Subsection **B(3)** shall be replaced by a schedule of the proposed assessments.

C.

A copy of the report when completed shall be filed with the Town Clerk for public inspection.

§ 75-23. Costs that may be paid by special assessment.

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Town and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be

attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Town Board.

§ 75-24. Exemptions; deductions.

A.

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

B.

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

§ 75-25. Notice of proposed or approved project.

On the completion and filing of the report required in § **75-22** of this article, the Town Clerk shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Town Board or committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be given either by publication in the official Town newspaper or posted in not less than three public places and a copy of said notice shall be mailed to each interested person whose post office address is known. The hearing shall commence not less than 10 days and not more than 40 days after the publication or posting of said notice.

[1]:

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

§ 75-26. Board actions after hearing.

A.

After the hearing, the Town Board may approve, disapprove, modify or re-refer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable assessment.

B.

If an assessment is made against any property and an award of compensation or damage is made in favor of the property, the Town Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.

C.

If the work or improvement has not been previously authorized or approved, the Town Board shall approve the work or improvement and, by resolution, direct that the same be done and paid for in accordance with the report finally approved. If the work or improvement has been approved by the Town Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Town Board shall, by resolution, confirm the report as made or modified and provide for payment in whole or in part by assessment.

D.

The Town Clerk shall publish the final resolutions as required in § **75-25** of this article.

E.

After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by § 66.0703(12), Wis. Stats., or any other applicable provision of law.

§ 75-27. Combined assessments.

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

§ 75-28. Board's power to amend, cancel or confirm special assessment.

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Town Board determines to reconsider an assessment, it is empowered, after giving notice as required in § **75-25**, to amend, cancel or confirm any prior assessment, and notice of this amending, canceling or confirming shall be given by the Town Clerk as provided in § **75-26** of this article.

§ 75-29. Where cost of improvement is less than assessment.

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

§ 75-30. Appealed assessments payable when due.

Pursuant to § 66.0703(12)(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable and upon default in payment any such appeal shall be dismissed.

§ 75-31. Special assessment a lien on property.

Pursuant to § 66.0703(13), Wis. Stats., any special assessment levied under this article shall be a lien on the property against which it is levied on behalf of the Town or appropriate utility district. The Town Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Town Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

§ 75-32. Special charges permissible.

A.

In addition to all other methods provided by law, special charges for current services may be imposed by the Town Board by allocating all or part of the cost of the service to the property served. Such service may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care or removal, and any other service as provided in § 66.0627(1)(c), Wis. Stats. The Town Board may determine the manner of providing notice of a special charge. Before a special charge for street tarring or the repair of sidewalks, curbs or gutters may be imposed, the Town Board shall conduct a hearing on whether the service in question will be funded in whole or in part by a special charge. Notice of the hearing shall be given as provided in § 66.0627(3)(b), Wis. Stats.¹¹

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Such special charges shall not be payable in installments. If not paid within the period fixed by the Town Board, such delinquent charge shall become a lien as provided in § **75-31** of this article.

C.

Section **75-22A** of this article shall not be applicable to proceedings under this section.

§ 75-33. Miscellaneous provisions.

A.

If any assessment or charge levied under this article is invalid because such statutes are found to be unconstitutional, the Town Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.

B.

The Town Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.

C.

Notwithstanding any other provision of law or this article or other ordinance or resolution, it is specifically intended and provided by this article that the Town may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

Article III. Licensees To Pay Local Claims

[Adopted 3-13-2000 as Title 7, Ch. 9, of the 2000 Code]

§ 75-34. Payment of claims.

The Town shall not issue or renew any license to transact any business within the Town of McMillan:

A.

For any purposes for which taxes, assessments or other claims of the Town are delinquent and unpaid.

B.

For any person who is delinquent in payment of:

(1)

Any taxes, assessments or other claims owed the Town; or

(2)

Any forfeiture resulting from a violation of any Town ordinance.

§ 75-35. Applicability.

This article shall apply to licenses issued pursuant to the provisions of the following chapters and articles of the Code:

A.

Chapter **223**, Assemblies, Mass Public.

B.

Chapter **299**, Fireworks.

C.

Chapter **332**, Intoxicating Liquor and Fermented Malt Beverages, Article **I**, Licensing.

D.

Chapter **440**, Streets and Sidewalks, Article **II**, Street Use Permits.

E.

Chapter **461**, Transient Merchants.

§ 75-36. Denial of application.

An application for renewal of a license subject to this article shall be denied pursuant to the provisions of § **75-34** only following notice and opportunity for hearing as provided by § **75-37** below.

§ 75-37. Notice and hearings.

Prior to any denial of an application for renewal of a license, including denials pursuant to § **75-34**, the applicant shall be given notice and opportunity for a hearing as hereinafter provided:

A.

With respect to licenses renewable under Chapter **332**, Article **I**, of this Code, notice and opportunity for hearing shall be as provided by § 125.12, Wis. Stats., as amended from time to time, and Town ordinances.

B.

With respect to licenses other than those described in Subsection **A** herein, the Town Board or its assignee shall notify the applicant in writing of the Town's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three days nor more than 10 days after the date of the notice, on which the applicant shall appear before the Town Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Town Board shall conduct a hearing with respect to the matter. At the hearing, both the Town and the applicant may produce witnesses, cross-examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Town Board determines the applicant shall not be entitled to renewal pursuant to § **75-34**, the application for renewal shall be denied.

§ 75-38. Appeals.

Where an individual, business or corporation wishes to appeal the Town Clerk's decision not to issue a license or permit under this Code on grounds other than those specified in §§ **75-34** through **75-37** above, the applicant may file a request in writing with the Town Clerk that the matter be referred to the Town Board. A public hearing shall be scheduled within 14 calendar days by the Town Board. All parties may be

represented by counsel. The Board shall consider all relevant information and shall render a decision, which shall be binding.

§ 75-39. Duty of Clerk with regard to licenses.

The Town Clerk shall be charged with the administration of all ordinances relating to licenses unless otherwise provided by the Town Board.

Chapter 90. GRIEVANCE PROCEDURES

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

Article I. Americans With Disabilities Act

[Adopted 3-13-2000 as Title 15, Ch. 4, of the 2000 Code]

§ 90-1. General provisions.

A.

The Town of McMillan, in complying with the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, has developed a plan by which access to all Town programs, facilities, services and employment is guaranteed to all citizens. A transition plan has been adopted by the Town Board and is available from the Town Clerk. An ADA Coordinator has been appointed and an ADA Compliance Committee established. Concerns and/or complaints can be addressed to the ADA Coordinator, care of the Town Clerk.

B.

The ADA Coordinator and ADA Compliance Committee shall be annually appointed by the Chairperson, subject to confirmation by the Town Board, at the Board's organizational meeting. The ADA Compliance Committee shall be the Town Plan Commission.

C.

Town letterhead and other applicable printed notices should contain the words "An equal opportunity/affirmative action employer."

D.

An ADA Committee meeting shall be treated as any other Town committee meeting and notice shall be posted a minimum of 24 hours prior to the meeting.

§ 90-2. Complaint procedure.

A.

Complaints shall be filed with the ADA Coordinator, in care of the Town Clerk.

B.

A complaint shall be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation or complaint.

C.

A complaint should be filed within 30 days after the complainant becomes aware of the alleged problem.

D.

An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the ADA Coordinator.

E.

A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than 20 days after its filing.

F.

The Town Clerk shall maintain the files and records of the Town relating to the complaints filed.

§ 90-3. Appeals.

A.

If unresolved, the complainant or ADA Coordinator may ask that the complaint be forwarded to the ADA Compliance Committee. The Committee may establish rules to review the complaint and will issue its written decision within 30 days. Review will be conducted in public with a minimum 24 hours' notice. All proceedings will be transcribed and maintained. The Committee will also review requests or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community.

B.

If unresolved, the complainant or ADA Coordinator may ask that the complaint be heard by the Town Board and that a determination be made within 30 days of the ADA Compliance Committee's hearing. The decision by the Board shall be final. An open public meeting of the Town Board shall precede the vote.

§ 90-4. Other remedies.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other state or federal remedies. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the Town believes that resolution of the complaint will be more promptly achieved if the Town is able to provide a remedy before the complaint is brought to an external organization.

§ 90-5. Due process.

This article shall be construed to protect the substantive rights of interested persons and to meet appropriate due process standards.

Article II. Employee Grievance Procedure

[Adopted 7-30-2012]

§ 90-6. Purpose.

This grievance procedure is adopted pursuant to § 66.0509(1m), Wis. Stats., and is intended to provide a timely and orderly review of disputes regarding:

A.

Employee terminations;

B.

Employee discipline; and

C.

Workplace safety.

§ 90-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DAYS

Calendar days, excluding legal holidays as defined in § 995.20, Wis. Stats.

DISCIPLINE

Any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, disciplinary demotions and terminations. The term "discipline" does not include verbal notices or reminders, written reprimands, performance evaluations, documentation of employee acts and/or omissions in an employment file, nondisciplinary demotions, nondisciplinary adjustments to compensation or benefits, actions taken to address job performance, such as establishment of a performance improvement plan or job targets, placing an employee on paid leave pending an internal investigation, or other personnel actions taken by the employer for nondisciplinary reasons.

HEARING OFFICER

The impartial hearing officer required pursuant to § 66.0509(1m)(d)2, Wis. Stats. The hearing officer shall be selected by the Town Board. The hearing officer shall not be an employee of the Town. ^u

TERMINATION

A discharge from employment for rule violations, poor performance, acts detrimental to the employer or other acts of misconduct. The term "termination" does not include a voluntary quit, completion of seasonal employment, completion of temporary assignment, completion of contract,

layoff or failure to be recalled from layoff at the expiration of the recall period, retirement, job abandonment ("no call, no show" or other failure to report to work), or termination of employment due to medical condition, lack of qualification or license, or any other cessation of employment not involving involuntary termination.

WORKPLACE SAFETY

Any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 90-8. Process and timelines.

A.

The employee must file a written grievance with the Town Clerk within 10 days of the termination, discipline or actual or reasonable knowledge of the alleged workplace safety issue. So that an earnest effort can be made to resolve the matter informally, the grievant must discuss the issue with his/her immediate supervisor prior to filing the written grievance. However, in the case of a termination, such a meeting is not required. Grievance forms may be obtained from the Clerk. The Town Clerk shall inform the employee's immediate supervisor and the Town Chair about receipt of the written grievance as soon as practicable.

B.

The employee's immediate supervisor will meet with the grievant within 10 days of receipt of the written grievance. The supervisor will provide the grievant with a written response within 10 days of the meeting. A copy of the supervisor's response shall be filed in the Clerk's office. If no one has been designated the employee's immediate supervisor, the employee will meet with the Town Chair, who shall then provide the written response.

C.

The employee may request an appeal to the hearing officer by filing a written request with the Town Clerk within 10 days of receiving the written response. The Town Clerk shall notify the Town Chair and employee's supervisor about the filing of the request for a hearing as soon as practicable. The Town will work with the hearing officer and grievant to schedule a mutually agreeable hearing date.

D.

The hearing officer shall provide the employee and employee's supervisor with a written decision no later than 30 days after the hearing date. The hearing officer shall also provide the Town Clerk with a copy of the decision for filing in the Clerk's office.

E.

The non-prevailing party may file a written request with the Town Clerk for an appeal to the Town Board within 10 days of receipt of the hearing officer's decision. The Clerk shall notify the Town Chair about the request as soon as possible. The Town Board

shall decide the matter and issue a written decision within 45 days of the filing of the appeal. The Town Board may sustain, deny or modify the recommendation of the impartial hearing officer. The decision of the Town Board shall be final and binding. A copy of the Board's decision shall be provided to the employee and filed in the Town Clerk's office.

F.

All timelines may be extended by mutual written agreement of the Town Board and employee. Without such agreement, a failure of the employee to adhere to any of the specified timelines shall preclude any further consideration of the grievance.

G.

If the last day on which an event is to occur is a Saturday, Sunday, or legal holiday, the time limit is extended to the next day which is not a Saturday, Sunday or legal holiday. A grievance or request for an appeal is considered timely if received by the Town Clerk during normal business hours or if postmarked by 11:59 p.m. on the due date.

H.

If the grievance is not answered within the time limits, at any stage, the employee may proceed to the next available step within seven days.

I.

The grievant and Town Board may mutually agree in writing to waive a step or multiple steps within the procedure.

J.

Granting the requested or agreed upon remedy resolves the grievance.

§ 90-9. Grievance requirements.

The written grievance must contain:

A.

A statement of the pertinent facts surrounding the nature of the grievance;

B.

The date the incident occurred or the date the alleged workplace safety concern was discovered;

C.

The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion;

D.

The specific remedy requested; and

E.

A description of the workplace safety rule alleged to have been violated, if applicable.

§ 90-10. Supervisor's response.

The supervisor's written response to the employee's written grievance must contain:

A.

A statement of the date the meeting between the employee and supervisor was held.

B.

A decision as to whether the grievance is sustained or denied.

§ 90-11. Procedure before hearing officer.

A.

The hearing officer shall define the issues, identifying areas of agreement and identifying the issues in dispute, and hear evidence and arguments. The hearing officer will determine whether the Town acted in an arbitrary and capricious manner. A decision will not have been arbitrary or capricious if it was made in the best interest of the Town. In all cases, the grievant shall have the burden of proof to support the grievance. This process does not involve a hearing before a court of law; thus, the rules of evidence will not be strictly followed. However, no factual findings may be based solely on hearsay evidence.

B.

The hearing officer may require the employee and Town to submit materials related to the grievance and witness lists in advance of the hearing in order to expedite the hearing. The hearing officer shall sustain or deny the decision of the employee's supervisor. The hearing officer is not given authority to modify the decision made by the employee's supervisor. The hearing officer is not given authority to grant in whole or in part the specific request of the grievant. Within 30 days after the hearing, the hearing officer will issue a decision in writing indicating the findings and reasons for the decision.

C.

If the hearing officer's decision on any grievance is appealed, only the issues raised in the hearing may be appealed. Issues are not subject to modification in the appeal process.

§ 90-12. Hearing officer's decision.

The hearing officer's written decision must contain:

A.

A statement of pertinent facts surrounding the nature of the grievance.

B.

A decision as to whether the grievance is sustained or denied, with the rationale for the decision.

C.

A statement outlining the timeline to appeal the decision.

§ 90-13. Representation.

Both the employee and the Town may be assisted by a representative of their own choosing in person or by teleconference at any point during the grievance process.

§ 90-14. Consolidation of grievances.

A.

The employee's immediate supervisor and/or the hearing officer may consolidate grievances where a reasonable basis for consolidation exists.

B.

If more than one employee is grieving the same issue or circumstance, a single grievance form may be used. A group grievance must be signed by all grieving employees and must indicate that it is a group grievance at the first step in the grievance process.

§ 90-15. Costs.

Any expense incurred by an employee in investigating, preparing, or presenting a grievance shall be the sole responsibility of the employee. Each party (employee and employer) shall bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees. The fees of the impartial hearing officer shall be divided equally between the parties with the employee(s) paying half and the employer paying the other half. The fees of the hearing officer will be set by the Town Board.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

Chapter 121. NOTICES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as § 2-1-6 of the 2000 Code. Amendments noted where applicable.]

§ 121-1. Official newspaper.

The Town of McMillan shall use posting pursuant to the Wisconsin Statutes as its means of giving notice. When publication is required by the Wisconsin Statutes or when directed by the Town Board as a substitute to posting, the official newspaper of the Town of McMillan shall be the Marshfield News-Herald.

Chapter 132. OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 2, Ch. 4, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 23.

Town Board — See Ch. 176.

Town meeting — See Ch. 180.

§ 132-1. Election of Town officers; general provisions.

A.

Elected Town officers. At the annual spring election in odd-numbered years, the Town shall elect a Chairperson, two Supervisors, and a Constable. At the annual spring election in even-numbered years, the Town shall elect two Supervisors.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Restrictions.

(1)

Only an elector of the Town may hold a Town office, other than an Assessor appointed under § 60.307, Wis. Stats.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

No person may hold the offices of Town Treasurer and Town Assessor at the same time. No person may assume the office of Town Assessor unless certified by the Department of Revenue, under § 73.09, as qualified to perform the functions of the office of Town Assessor. If the Town reverts to a system of electing instead of appointing the Assessor and a person is elected to the office and is not certified by June 1 of the year elected, the office is vacant and the Town Board shall fill the vacancy from a list of persons certified by the Department of Revenue.

C.

Notice of election. Within five days after completion of the canvass under § 7.53, Wis. Stats., the Town Clerk shall transmit a notice of election to each person elected to a Town office.

D.

Term of office.

(1)

Every elected Town officer shall hold the office for two years.

(2)

The regular term of elected Town officers commences on the third Tuesday of April in the year of their election.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

The regular term of an elected Assessor commences on June 1 in the year of the Assessor's election.^[4]

[4]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 132-2. Temporary vacancies.

A.

If any elected Town officer, other than a Supervisor, is absent or temporarily incapacitated for any cause, the Town Board may appoint, if there is no deputy officer for the office, a suitable person to discharge the duties of the office until the officer returns or the disability is removed. Appointees shall file the official oath and bond required under § 60.31, Wis. Stats.

B.

Vacancies on the Town Board shall be filled by appointment by the remaining Supervisors and the Town Clerk, except when the vacancy is caused by removal by the Circuit Judge as provided by law, which latter vacancy shall be filled by appointment by said Judge. Persons appointed under this subsection to fill vacancies shall hold office for the residue of the unexpired term.

C.

If any elected Town officer, other than a Supervisor, refuses to perform any official duty, the Town Board may appoint a suitable person to perform those duties which the officer refuses to perform. An appointee shall file the official oath and bond required of the office under § 60.31, Wis. Stats. This subsection does not preclude a finding that refusal to perform official duties constitutes cause under § 17.13(3), Wis. Stats.

§ 132-3. Official oath and bond.

A.

Official oath. Except as provided in Subsection C, every elected or appointed Town officer shall take and file the oath under § 19.01, Wis. Stats., within five days after notification of election or appointment.

B.

Official bond. The Town Clerk, Town Treasurer, and Town Constable shall execute and file an official bond provided by the Town. No natural person may be a surety on a bond under this subsection. The bond may be furnished by a surety company under § 632.17(2), Wis. Stats. The amount of the bond shall be fixed by the Town Board. If the amount of the bond is not fixed by the Board, the amount shall be the same as that required of the last incumbent of the office. If the Town Board at any time determines that the bond is insufficient, it may require an additional bond to be filed within 10 days in an amount fixed by the Board. If the Town Board establishes Deputy Clerk or Treasurer positions, such persons shall be bonded.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Exceptions. If the Town reverts to a system of electing an Assessor and/or creates a Municipal Court:

(1)

An elected Assessor shall take and file the official oath and bond at any time between May 27 to May 31.

(2)

The Municipal Judge shall take and file the official oath and bond under § 755.03. Wis. Stats.

D.

Failure to file oath or bond. If any person elected or appointed to a Town office fails to file a required official oath or bond within the time prescribed by law, the failure to file constitutes refusal to serve in office.

§ 132-4. Compensation of elective Town offices.

A.

Established by Town Meeting or Board.

(1)

Except as provided under Subsection **A(2)** below, the Town Meeting shall establish the compensation of elective Town offices.

(2)

If authorized by the Town Meeting under § 60.10(2)(k), Wis. Stats., the Town Board shall establish the compensation of elective Town offices, other than the office of Supervisor or Chairperson.

B.

Nature of compensation. Compensation under this section may be:

(1)

An annual salary.

(2)

A per diem compensation for each meeting necessarily devoted to the service of the Town and the discharge of duties. Board members or Town officials shall be the Town's authorized representative at a meeting or be attending an authorized convention/training session to be eligible for per diem compensation.

(3)

A combination of the above.

C.

Changes during term. Subject to Subsection **D**, the Town Meeting or, if authorized to establish compensation, the Town Board may make a change in the compensation of an elective Town office to take effect during the term of office.

D.

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

§ 132-5. Reimbursement of expenses.

A.

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

(1)

Traveling expenses, including mileage, lodging and meal expenses.

(2)

Costs associated with programs of instruction related to the officer's or employee's office or employment.

B.

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

§ 132-6. Compensation when acting in more than one official capacity.

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

§ 132-7. Town Clerk.

A.

Duties as Town Clerk. The Town Clerk shall:¹⁴

(1)

Clerk of Town Meeting. Serve as Clerk of the Town Meeting under § 60.15, Wis. Stats.

(2)

Clerk of Town Board.

(a)

Serve as Clerk of the Town Board, attend meetings of the Board and keep a full record of its proceedings.

(b)

File all accounts approved by the Town Board or allowed at Town Meetings and enter a statement of the accounts in the Town's record books.

(c)

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

(3)

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

(4)

Elections and appointments.

(a)

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

(b)

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

(c)

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

(5)

Sale of real property. Execute the conveyance of real property of the Town. However, prior to the sale of any property by the Town Board, the electors attending a Town Meeting must have given the Town Board authorization to do so.

(6)

Notices.

(a)

Publish or post ordinances and resolutions as required under § 60.80, Wis. Stats.

(b)

Give notice of Annual and Special Town Meetings as required under §§ 60.11(5) and 60.12(3), Wis. Stats.

(7)

Records.

(a)

Comply with Subchapter II of Chapter 19, Wis. Stats., concerning any record of which the Clerk is legal custodian.

(b)

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

(8)

Licenses. Issue any license or permit granted by the Town Board when any required fee has been paid.

(9)

Schools.

(a)

Perform the Clerk's duties under Chapters 115 to 121, Wis. Stats., relating to public instruction.

(b)

Within 10 days after the Clerk's election or appointment, report his or her name and post office address to the administrator of each cooperative educational service agency which contains any portion of the Town. The Clerk shall report to the administrator the name and post office address of each school district clerk within 10 days after the name and address is filed in the Clerk's office.

(c)

Make and keep in the Clerk's office a map of the Town, showing the exact boundaries of school districts within the Town.

(d)

Apportion, as provided by law, tax revenues collected by the Town for schools.

(10)

Highways and bridges. Perform the duties specified in Chapters 82 to 92, Wis. Stats., relating to highways, bridges and drains.

(11)

Notice of property tax revenue. Notify the treasurer of the county in which the town is located, by February 20, of the proportion of property tax revenue and of the credits under § 79.10 that is to be disbursed by the taxation district treasurer to each taxing jurisdiction located in the Town.^{[2],[3]}

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[3]:

Editor's Note: Original Subsection (I), Recording orders and certificates, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(12)

Statement of indebtedness to Secretary of State. Furnish, pursuant to § 69.68, Wis. Stats., a full and complete summary of the bonded indebtedness and all other

indebtedness, the purpose for which the sum was incurred and any accrued interest, if any, remaining unpaid to the Secretary of State.

(13)

Managed forest land. Receive copies from the Department of Natural Resources of all petitions for entry under the Managed Forest Law of all lands in the Town pursuant to § 77.82(5), Wis. Stats. The Town Clerk shall receive copies of notices of hearings established pursuant to § 77.82(6), Wis. Stats., and copies of any orders issued pursuant to § 77.82(8), Wis. Stats.

(14)

Notice of cessation of operations. Receive the appropriate notice, pursuant to § 109.07, Wis. Stats., of mergers, liquidation, disposition, relocation or cessation of operations from any employer in the Town; the Town Clerk shall then immediately inform the Town Board of receipt of such information.

(15)

Release and publication of tax roll. Receive the assessment rolls and then publish a Class 1 notice, if applicable, or post notice under Ch. 985, Wis. Stats. The notice will provide that in the noted days the assessment roll will be open for examination by the taxable inhabitants.

(16)

Rabies control program. Promptly post notice in at least three public places in the Town pursuant to § 95.21(3), Wis. Stats., with the notices of quarantine to be furnished by the Department of Agriculture, Trade and Consumer Protection.

(17)

Prepare general statistics and annual statement of taxes. Make out and transmit to the County Clerk by year's end a statement pursuant to § 69.60, Wis. Stats., showing the assessed value of all property within the Town, all taxes levied, all special assessments made and purposes for special assessments. Also, a complete and detailed statement of the bonded and other indebtedness of the Town and of any accrued interest remaining unpaid and the purpose for which the indebtedness was incurred. In addition, on or before the third Monday of December, the Town Clerk shall file a statement of taxes levied to the Department of Revenue.

(18)

Make tax roll. Make out the complete list of all taxable real property to be called the tax roll as required in § 70.65, Wis. Stats.

(19)

Correct tax roll. Before delivering the tax roll to the Town Treasurer and after delivering the tax roll to the Town Treasurer, shall correct the errors in the tax roll required in § 70.73, Wis. Stats.

(20)

Receive assessment roll. Receive from the Assessor on or before the first Monday in May the completed assessment roll as required by § 70.50, Wis. Stats.

(21)

Drainage district. Insert in the tax roll, in a separate column, amounts certified by the Drainage Board Secretary as assessments and interest due as required under § 88.42, Wis. Stats.

(22)

In general. Perform all other duties required by law, ordinance or lawful direction of the Town Meeting or Town Board.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Deputy Clerk. The Town Clerk may, pursuant to § 60.331, Wis. Stats., appoint a Deputy Clerk. The Deputy Clerk shall take and file the oath and bond as required by § 60.31, Wis. Stats. The Town Board shall determine what compensation is to be paid the Deputy Clerk.

§ 132-8. Town Treasurer.

The Town Treasurer shall:

A.

Receive and disburse Town money.

(1)

Receive and take charge of all money belonging to the Town, or which is required by law to be paid into the Town treasury, and disburse the money under § 66.0607, Wis. Stats.

(2)

Keep an itemized account of all moneys received and disbursed, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid. The Town Treasurer shall issue numbered receipts for all funds received. At the request of the Town Board, the Town Treasurer shall present the account books, and any supporting documents requested, to the Board.

B.

Deposit of Town money.

(1)

Deposit as soon as practicable funds of the Town in the name of the Town in the public depository designated by the Town Board. Failure to comply with this subsection is grounds for removal from office.

(2)

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

C.

Records. Comply with Subchapter II of Ch. 19, Wis. Stats., concerning records of which the Treasurer is legal custodian.

D.

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

§ 132-9. Assessor.

A.

The office of Assessor is an appointed position. Pursuant to § 60.307(3), Wis. Stats., the Assessor is appointed by majority vote of the Town Board for a term as determined by contract, but not less than one year. The Town Assessor so appointed need not be a resident of the Town of McMillan and may hold the office of Assessor for another town or municipality with the consent of the Town Board.¹³

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Duties. The Town Assessor shall have all the statutory authority, powers and duties for property tax assessment required of the Town Assessor pursuant to Chapters 60, 66, 70 and 79, Wis. Stats. The Assessor shall begin under § 70.10, Wis. Stats., to make an assessment of all of the property in the Town liable to taxation, as prescribed by law. The Assessor shall return the assessment roll to the Town Clerk at the same time and in the same manner in which Town Assessors are required to do as required by Ch. 70, Wis. Stats.

§ 132-10. Building Inspector.

A.

Appointment. Building Inspector(s) may be appointed by the Chairperson, subject to confirmation by the Town Board. He/she shall have an indefinite term of office or as prescribed by professional services agreement. The Building Inspector shall review plans, collect building code-related fees and arrange for on-site inspections. The Building Inspector shall have proper certification in areas of responsibility from the State of Wisconsin. If an independent contractor is serving as Town Building Inspector, the Town Board may require that such Building Inspector provide evidence of liability insurance.

B.

Powers and duties.

(1)

The Building Inspector shall enforce the Town's building and housing codes and all other ordinances, laws, and orders of the Town and state which relate to budding construction, alteration, and repair. With the authorization of the Town Board, he/she may appoint one or more Deputy Building Inspectors and may delegate to them the above-mentioned powers and duties.

(2)

The Building Inspector shall make all on-site inspections necessary for compliance with and enforcement of the Building Code.¹¹ This may include inspections for compliance with Town electrical, HVAC and plumbing codes.

[1]:

*Editor's Note: See Ch. **237**, Building Construction.*

(3)

The Inspectors shall have the power to order all work stopped on construction, alteration, or repair of buildings in the Town when such work is being done in violation of any Town ordinance. Work shall not be resumed after the issuance of such an order, except on written permission of the appropriate Inspector.

C.

Right of entry. Inspectors shall have the power to make or cause to be made an entry into any building or premises where the work of altering, repairing, or constructing any building or structure is going on, including plumbing and electrical work.

§ 132-11. Weed Commissioner.

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

§ 132-12. Town Attorney.

A.

Appointment. The office of Town Attorney is an appointed position. The Town Attorney may be appointed by the Town Board and shall serve at the pleasure of the Board. The Town Board shall negotiate and establish the compensation in a contract for the designation, retention or employment of an attorney based on a regular salary, per diem rate, retainer, hourly rate, or other methods agreed to by the Attorney and the Town Board.

B.

Duties. The Town Attorney shall have the following duties. The Town Attorney:

(1)

Shall conduct all of the law business in which the Town is interested.

(2)

Shall, when requested by Town officers, given written legal opinions, which shall be filed with the Town.

(3)

Draft ordinances, bonds and other instruments as may be required by Town officers.

(4)

May appoint an assistant, who shall have power to perform his/her duties and for whose acts he shall be responsible to the Town. Such assistant shall receive no compensation from the Town, unless previously provided by ordinance.

(5)

Shall perform such other duties as provided by state law and as designated by the Town Board.

C.

Special counsel. The Town Board may employ and compensate special counsel to assist in or take charge of any matter in which the Town is interested.

§ 132-13. Town Engineer.

The office of Town Engineer is an appointed position. The Town Engineer may be appointed by the Town Board and shall serve at the pleasure of the Board. When authorized by the Town Board, the Town Engineer shall provide engineering services to the Town. The cost of engineering services provided to the Town may be billed back to parties that created the need for such expenditures.

§ 132-14. Town Constable.

The Town Constable shall be selected pursuant to Ch. 60, Wis. Stats. The Town Board does have the authority to establish the powers and duties of the Town Constable, which are as follows:

A.

The Town Constable may impound dogs, cattle, horses, sheep, swine and other animals at large in violation of any duly published order or ordinance adopted by the Town Board.

B.

The Town Constable may enforce violations of the following chapters and articles of this Code and, when directed by the Town Board, enforce other provisions of this Code:

(1)

Chapter **400**, Property Maintenance, Article **I**, Junked Vehicles and Appliances.

(2)

Chapter **433**, Snowmobiles and All-Terrain Vehicles.

(3)

Chapter **479**, Vehicles, Abandoned.

(4)

Chapter **483**, Vehicles and Traffic.

§ 132-15. Town Auditor/Accountant.

A.

Retention. The Town Board may, pursuant to §§ 60.41 and 60.43, Wis. Stats., designate, retain or employ one or more accountants, including certified public accountants, on a temporary or continuing basis for financial matters or to represent the Town in financial matters.

B.

Compensation. The Town Board shall negotiate and establish the compensation in a contract for the designation, retention or employment of an accountant based on a regular salary, per diem rate, retainer, hourly rate or other methods agreed to by the accountant and the Town Board.

C.

Duties. The accountant has the duties and powers established in §§ 60.41 and 60.43, Wis. Stats., plus any additional powers and duties established pursuant to the retainer contract between the accountant and the Town Board. The appropriate bond shall be filed prior to the Town Board executing the written contract.

§ 132-16. Town employees; special office positions.

A.

Town employees. The Town Board may employ on a temporary or regular basis persons necessary to carry out the functions of Town government. The Board may establish the qualifications and terms of employment. The Board may delegate the authority to hire Town employees to any Town official or employee.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Residency. The following special office positions need not be Town of McMillan residents to hold these positions:^[2]

(1)

Town Attorney.

(2)

Town Engineer.

(3)

Town Auditor/Accountant.

(4)

Town Assessor.

(5)

Building Inspector.

(6)
Clerk.

(7)
Treasurer.

(8)
Other consultants.

[2]:
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.
Meeting attendance. Special office holders listed in Subsection B shall attend or make all good faith efforts to attend all properly called meetings of the Town Board if their attendance is requested at least three days prior to the meeting, or as established by professional services agreement.

§ 132-17. Custody of official property.

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

§ 132-18. Eligibility for office; incompatibility of office.

A.
Any person who is a qualified elector in the Town of McMillan may hold any elected Town office. No member of the Town Board may, during his or her term, be eligible for any Town office or Town position which, during such term, has been created by or the selection to which is vested in the Town Board. Any member of the Town Board will be eligible for such Town office or Town position if he or she resigns from the Town Board before being appointed to the Town office or Town position and if the office or position was not created during his or her term in office.^[1]

[1]:
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.
Certain Town offices are incompatible, by common law and statutory law, with other Town offices and also with other county, state or federal offices. No Town officer shall serve in both offices at the same time. If any question or concern by any person is raised to the Town Board regarding incompatibility of any office in the Town of McMillan, the Town Attorney, at the request of the Town Board, shall review the matter and shall provide his or her written comments to the Town Board.^[2]

[2]:
Editor's Note: Original Sec. 2-4-19, Official oath and bond, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 148. PUBLIC BUILDINGS AND LAND

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 3, Ch. 4, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Notices — See Ch. 121.

Town meeting — See Ch. 180.

§ 148-1. Authority.

The Town Board has the specific authority, powers and duties pursuant to §§ 60.10, 60.22, and 101.13, Wis. Stats., and specific statutory authority, powers and duties with authorization of the Town Meeting, to purchase, lease, construct and dispose buildings and property for the Town of McMillan and to manage and direct certain affairs related to Town buildings and lands.

§ 148-2. Public building access and use.

A.

Authority for public access. The Town Board has the authority to establish dates and times for public access to the public buildings and public lands owned or leased by the Town. In addition, the Town Board has the authority to place additional restrictions on the use of the public buildings and public lands owned or leased by the Town.

B.

Town Hall and legal offices.^[1]

(1)

The Town office is located in the new Town garage. The office of the Town Clerk houses the legal office of the Clerk and records of the Town of McMillan.

(2)

The Town Hall and legal offices of the Town of McMillan shall be open to the public as posted unless written notice to the contrary is posted at the usual and customary locations in the Town.

(3)

The Town Hall houses the office of the Treasurer of the Town of McMillan. Its principal design is that of the Treasurer's office and the Board Room. Its primary use is meetings and governmental functions.

(4)

The locked posting box for the purpose of posting all public notices is on the outside front wall of the Town Hall.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Litter and discharge.

(1)

The Town Board does not permit the disposal or discharge of any litter, solid waste, hazardous waste, garbage or any other refuse in any Town public building and on the premises of any Town building except in disposal containers authorized by the Town.

(2)

No person shall dispose or discharge the above-noted waste in violation of this provision. Any person violating this provision shall immediately and totally reclaim and remove the disposed or discharged waste from the Town public building.

Chapter 159. RECORDS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 3, Ch. 3, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Public buildings and land — See Ch. 148.

Notices — See Ch. 121.

§ 159-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACTUAL COST

The total cost of personnel, including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

AUTHORITY

Any of the following Town of McMillan entities having custody of a Town record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the foregoing.

CUSTODIAN

That officer, department head, division head, or employee of the Town designated under § 159-3 or otherwise responsible by law to keep and preserve any Town records or file, deposit or keep such records in his or her office, or who is lawfully in possession or entitled to possession of such public records and who is required by this chapter to respond to requests for access to such records.

DIRECT COST

The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.

RECORD

Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), 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 or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.¹¹

TOWN

The Town of McMillan, Marathon County, Wisconsin, and its administrative subunits.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 159-2. Duty to maintain records.

A.

Except as provided under §§ **159-7** and **159-8**, each officer and employee of the Town shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

B.

Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Town Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Town Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

§ 159-3. Legal custodians.

A.

Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the Town Clerk to act as the legal custodian.

B.

Unless provided in Subsection **C**, the Town Clerk or the Town Clerk's designee shall act as legal custodian for the Town and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Town Board. The following offices or authorities shall have as a legal custodian of records the individual so named:

Authority

**Designated Legal
Custodian**

Authority	Designated Legal Custodian
General Town records (including Board records)	Town Clerk
Financial records	Town Treasurer
Fire Department	Fire Chief

C.

For every authority not specified in Subsections **A** and **B**, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

D.

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

E.

The Town Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

§ 159-4. Public access to records.

A.

Except as provided in § **159-6**, any person has a right to inspect a record and to make or receive a copy of any record as provided in § 19.35(1), Wis. Stats.

B.

Records will be available for inspection and copying during all regular office hours.

C.

If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.

D.

A requester shall be permitted to use facilities comparable to those available to Town employees to inspect, copy or abstract a record.

E.

The legal custodian may require 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 as provided in Chapter **72**, Fees, to defray the cost of copying records.¹¹

(1)

If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

(2)

The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, and audio and videotapes, shall be charged.

(3)

If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(4)

There shall be no charge for locating a record unless the actual cost thereof exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

(5)

The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds \$5.

(6)

Elected and appointed officials of the Town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(7)

The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

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

§ 159-5. Access procedures.

A.

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

provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under § **159-4F(5)**. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

B.

Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Town Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

C.

A request for a record may be denied as provided in § **159-6**. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons for 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 § 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

§ 159-6. Limitations on right to access.

A.

As provided in § 19.36, Wis. Stats., the following records are exempt from inspection under this chapter:

(1)

Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;

(2)

Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;

(3)

Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and

(4)

Pursuant to § 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a trade secret as defined in § 134.90(1)(c), Wis. Stats.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

As provided by § 43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.

C.

In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Town Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

(1)

Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.

(2)

Pursuant to § 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.

(3)

Pursuant to § 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any Town officer or employee, or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.

(4)

Pursuant to § 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.

(5)

Pursuant to § 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of Town property, investing of Town funds, or other Town business whenever competitive or bargaining reasons require nondisclosure.

(6)

Pursuant to § 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7)

Pursuant to § 19.85(1)(g), Wis. Stats., communications between legal counsel for the Town and any officer, agent or employee of the Town, when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under § 905.03, Wis. Stats.

(8)

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

D.

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

§ 159-7. Retention and destruction of records.

A.

Historical records. Under § 19.21(4)(a), Wis. Stats., municipalities must notify the State Historical Society of Wisconsin (SHSW) prior to destroying records. However, the SHSW has waived the required 60 days' notice for any record marked "W" (waived notice). The State Historical Society of Wisconsin must be notified prior to destruction of a record marked "N" (non-waived). Notice is also required for any record not listed in § **159-8**.

B.

Microfilming or optical imaging of records. Local units of government may keep and preserve public records through the use of microfilm, provided that the microfilm or optical imaging meets the applicable standards in § 16.612, Wis. Stats. Retention periods and estimated costs and benefits of converting records between media should be considered. After verification, paper records converted to microfilm or optical imaging should be destroyed. The retention periods identified in § **159-8** apply to records in any media.

C.

Destruction after request for inspection. No requested records may be destroyed until after the request is granted or 60 days after the request is denied. If an action is commenced under § 19.37, Wis. Stats., the requested record may not be destroyed until after a court order is issued and all appeals have been completed. [See § 19.35(5), Wis. Stats.]

D.

Destruction pending litigation. No record subject to pending litigation shall be destroyed until the litigation is resolved.

E.

Review and approval by Public Records Board. This chapter and the retention periods of less than seven years have been reviewed and approved by the Public Records and Forms Board.

F.

Legend. The following terms shall be applicable in §§ 159-7 and 159-8:

(1)

Records description. Provides a brief description of the records. Group specific items such as forms into logical groups that have the same function or purpose.

(2)

Period of retention. Refers to the time that the identified records must be kept until destruction.

"CR" stands for creation, which usually refers to receipt or creation of the record.

"FIS" stands for current fiscal year and the additional amount of time as indicated.

"EVT" stands for event and refers to an occurrence that starts the retention clock ticking. Close of contract, termination of employees, and disposition of a case are common events.

"P" stands for permanent retention.

(3)

Time. Is expressed in years unless specifically identified as month or day.

(4)

Authority. Refers to any specific statute, administrative rule, or specific regulation that determines retention of the record. In most cases, this will be blank because units of government have discretion to establish a time period.

(5)

SHSW notice. Refers to whether or not the State Historical Society of Wisconsin has waived the required statutory notification prior to destruction of records.

"W" means records are not historical and the required notification is waived.

"N" means the records may have secondary historical value and therefore SHSW notification is required on a case-by-case basis prior to destruction.

"N/A" means not applicable and refers to those circumstances where a local unit of government is retaining a record permanently.

§ 159-8. Specific records retention provisions.

A.

Accounting records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Period of Retention	Authority	SHSW Notice
Accounts payable			
Purchase invoices	FIS + 7 years		W
Vouchers	FIS + 7 years		W
Accounts receivable			
A/R invoices	FIS + 7 years		W
Receipts	FIS + 7 years		W
Collection blotters	EVT + 1 year (after audit)		W

B.

Board of Review records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Period of Retention	Authority	SHSW Notice
Form of objection to property assessment and supporting documentation	EVT + 7 years (after final action by Board of Review or completion of appeal)		W
Minute book of Board of Review	CR + 7 years		N
Proceedings of the Board of Review on audio tapes or as stenographic notes, including any transcriptions thereof	EVT + 7 years (after final action by Board of Review or completion of appeal)		W
Notice of determinations of the Board of Review	EVT + 7 years (after final action by the Board of Review or completion of appeal)		W

C.

Budget and audit records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Period of Retention	Authority	SHSW Notice
Budget worksheets	FIS + 3 years		W
Minutes of the Board of Estimates	Permanent		N/A
Final budget	Permanent		N/A
Audit reports	Permanent		N/A

D.

Building permits and inspection records. The following records may be destroyed after the expiration of the designated retention period:

Authority

Records	Period of Retention	SHSW Notice
Applications and permits	EVT (life of structure)	W
Code compliance inspection reports	EVT (life of structure)	W
Inspection address file	EVT (life of structure)	W
Certificates of occupancy	EVT (until superseded)	W
Energy calculation worksheets	CR + 3 years	W
State-approved commercial building plans	EVT + 4 years	W
Permit fee receipts	FIS + 7 years (provided record has been audited)	W
Permit ledger	CR + 7 years	W
Town Attorney's case file, copy	EVT + 1 year (after case has been closed)	W
Quarter section maps, copies	EVT (until superseded)	W
Records of the Plan Commission (includes minutes of meetings of Commission and supporting documents submitted to the Commission)	Permanent	N/A

E.

Election records. All materials and supplies associated with an election may be destroyed according to the following schedule unless there is a recount or litigation pending with respect to the election:

Records	Period of Retention	SHSW Notice
Voter serial number slips	EVT + (14 days after a primary) (21 days after an election)	W
Applications for absentee ballots	EVT + (90 days after the election) (22 months after the election for federal offices)	W
Forms associated with election such as tally sheets, inspectors' statements and nomination papers	EVT + (90 days after the election) (22 months after the election for federal offices)	W
Official canvass statements	EVT + (10 years after the election)	W

Records	Authority	
	Period of Retention	SHSW Notice
Registration and poll lists nonpartisan primaries and elections	EVT + (2 years after the election for which they were created)	W
Registration and poll lists partisan primaries and general election	EVT + (4 years after the election for which they were created)	W
Canceled registration cards	EVT + (4 years after the cancellation)	W
Election notices	EVT + (1 year after the election) (22 months for federal elections)	W
Proofs of publication and correspondence relative to publications	EVT + (1 year after the election) (22 months for federal elections)	W
Campaign registration statements	EVT + (6 years after termination by the registrant)	W
Campaign finance reports	EVT + (6 years after date of receipt)	W

F.

Engineering and public works records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	
	Period of Retention	SHSW Notice
Field notes	Permanent	N/A
Benchmark books	Permanent	N/A
Section corner monument logs	Permanent	N/A
Aerial photographs	EVT (until superseded)	W
Town maps	Permanent	N/A
Water, storm, and sanitary sewer main maps	Permanent	N/A
Profile and grade books	Permanent	N/A
Excavation plans of private utilities	Permanent	N/A
Index to maps	Permanent	N/A
Preliminary subdivision plats	EVT (until superseded by final plat)	W
Final subdivision plats	Permanent	N/A

Records	Authority	
	Period of Retention	SHSW Notice
Annexation plats	Permanent	N/A
Assessor's plats	Permanent	N/A
Structure plans for Town buildings and bridges	EVT (life of the structure)	N
Annual reports	Permanent	N/A
If created, records of the Plan Commission (includes minutes of meetings of the Commission and supporting documents submitted to the Commission)	Permanent	N/A
House number and address change file	Permanent	N/A
Street vacations and dedications, copies	EVT (retain for active reference life)	W
Permits (includes permits for the excavation of streets by private utility companies)	EVT + 3 years	W
Petitions for street and sewer systems	EVT + 2 years	W
Special assessment calculations	EVT + 2 years	W
TV sewer inspection records	EVT (until superseded)	W
State highway aide program records	FIS + 7 years	W

G.

Fidelity bond records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	
	Period of Retention	SHSW Notice
Oath of office	EVT + 5 years (after the term of service covered by the oath has ended)	W

H.

Insurance records and policies. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	
	Period of Retention	SHSW Notice
Policy	FIS + 7 years	W
Policy bids, unsuccessful	EVT + 1 year	W
Claims	EVT + 7 years	W

I.

Journals, registers and ledger. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	
	Period of Retention	SHSW Notice
Receipts journal	FIS + 15 years	W
Voucher/order register	FIS + 15 years	W
General journal	FIS + 15 years	W
Journal voucher	FIS + 15 years	W
Appropriation journal	FIS + 15 years	W
Appropriation journal voucher	FIS + 15 years	W
General ledger	FIS + 15 years	W
Trial balance	EVT (until audited)	W

J.

Legal opinions. Legal opinions rendered shall not be destroyed and shall be retained permanently.

K.

Licenses and permits. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	
	Period of Retention	SHSW Notice
Liquor and beer related license applications	EVT + 4 years	W
Other license applications	EVT + 3 years	W
Receipts	CR + 4 years	W
License stubs:		
All liquor- and beer-related	CR + 4 years	W
Other	CR + 3 years	W
Dog licenses monthly reports to County Clerk	CR + 3 years	W

L.

Municipal Court records. The legal custodian, as defined in § 19.33, Wis. Stats., of the following records concerning the Town of McMillan Municipal Court (in the event one is created), or its designee(s), may destroy the following public records after the expiration of the designated retention period:

Records	Authority	
	Period of Retention	SHSW Notice
Audio tape recordings of trials	EVT (until expiration of statute of	W

Records	Authority	SHSW Notice
or juvenile matters	limitations to appeal to Circuit Court)	
Municipal Court case files	EVT + 6 years (after entry of final judgment)	W
Municipal Court case files, Town Attorney's copies	EVT + 6 months (after entry of final judgment)	W
Municipal Court minutes record	EVT + 5 years (after entry of final judgment)	W
Municipal Court record	EVT + 5 years (after entry of final judgment)	W
Municipal Court judgment docket a record of all money judgment	EVT + 20 years (after final docket entry)	W

M.

Payroll records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	SHSW Notice
Payroll support record	FIS + 2 years	W
Employee's withholding allowance certificate	EVT + 5 years (after being superseded)	W
Employee's Wisconsin withholding exemption certificate	EVT + 5 years (after being superseded)	W
Employee enrollment and waiver cards	EVT + 2 years (after being superseded or terminated)	W
Employee earning records	FIS + 5 years	W
Payroll check register	FIS + 5 years	W
Payroll distribution record	FIS + 5 years	W
Payroll voucher	FIS + 5 years	W
Canceled payroll checks	FIS + 5 years	W
Wage and tax statement	FIS + 5 years	W
Report of Wisconsin income tax	FIS + 5 years	W
Employer's annual reconciliation of Wisconsin income tax withheld from wages	FIS + 5 years	W
Federal deposit tax stub	FIS + 5 years	W
Quarterly report of federal income tax	FIS + 5 years	W

	Authority	
Records	Period of Retention	SHSW Notice
withheld		
Annual report of federal income tax withheld	FIS + 5 years	W
State's quarterly report of wages paid	FIS + 5 years	W
Monthly memorandum report	FIS + 5 years	W
Quarterly report, payroll summary	FIS + 5 years	W
Premium due notices	FIS + 5 years	W

N.

Public safety records. The following public records may be destroyed after the expiration of the designated retention period:

	Authority	
Records	Period of Retention	SHSW Notice
Traffic citations (and accompanying documentation) sent through Town Municipal Court	EVT + 1 year (after closed)	W
Ordinance citations	EVT + 2 years (after closed)	W
All accounting records	CR + 7 years	W
Electronic recordings of court proceedings which were appealed	EVT + 7 years	W
Court statistical reports	CR + 7 years	N
Arrestment calendars	CR + 7 years	W
Warrant and commitment listings	CR + 7 years	W
Municipal Court correspondence	CR + 7 years	W
Electronic recordings of court proceedings which were not appealed	EVT + 6 months	W
Personnel records	EVT + 8 years	W
Property inventory records	EVT + 8 years	W
Citizen complaints against law enforcement officers	EVT + 8 years	W
Investigation and citation records		
Arrest records	EVT + 8 years	W
Incident records	EVT + 10 years	W
Fingerprint cards	EVT + 8 years	W
Evidence cards	EVT + 10 years	W
Work schedules	CR + 7 years	W

Records	Period of Retention	Authority	SHSW Notice
Accident reports	EVT + 4 years		W
Investigation reports	EVT + 10 years (from date of closing investigation)		W
Audio and videotape recordings			
Law enforcement dispatch audio tapes	CR + 120 days		W
Law enforcement video tapes	CR + 120 days		W
Information teletype messages	CR + 30 days		W
Medical records, re: occupational	EVT + 30 years		W
Training records for exposure control	CR + 3 years		W

O.

Public works projects and contracts. The following public records may be destroyed after the expiration of the designated retention period:

Records	Period of Retention	Authority	SHSW Notice
Notice to contractors	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Certified check	EVT (retain until contract has been signed and return to bidder)		W
Bid bond	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Bidder's proof of responsibility	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Bids	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Affidavit of organization and authority	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W

Authority

Records	Period of Retention	SHSW Notice
Bid tabulations	EVT + 2 years	W
Performance bond	EVT + 7 years (after completion of project)	W
Contract	EVT + 7 years (after completion of project)	W
Master project files	EVT + 20 years (after life of structure)	N
Blueprints	EVT (until superseded by the as-built tracings)	W
As-built tracings	EVT (life of the project)	N

P.

Purchasing records. The following public records may be destroyed after the expiration of the designated retention period:

Authority

Records	Period of Retention	SHSW Notice
Purchase requisitions	EVT + 1 year (after PO issued)	W
Purchase orders	FIS + 7 years	W
Receiving report	FIS + 7 years	W
Bids, successful	EVT + 7 years (after contract has expired)	W
Bids, unsuccessful	EVT + 1 year (after PO issued)	W
Inventory of property	EVT (retain until superseded)	W

Q.

Real property records. The following public records may be destroyed after the expiration of the designated retention period:

Authority

Records	Period of Retention	SHSW Notice
Deeds	Permanent	N/A
Opinions of title	Permanent	N/A
Abstracts and certificates of title	Permanent	N/A
Title insurance policies	Permanent	N/A
Plats	Permanent	N/A
Easements	Permanent	N/A

	Authority	
Records	Period of Retention	SHSW Notice
Leases	EVT + 7 years (after termination of lease)	W
Vacation or alteration of plat	Permanent	N/A

R.

Sewer and water utility records. The following public records may be destroyed after the expiration of the designated retention period:

	Authority	
Records	Period of Retention	SHSW Notice
Water stubs	FIS + 2 years	W
Receipts of current billings	FIS + 2 years	W
Customers' ledgers of municipal utilities	FIS + 2 years	W
All other utility records	CR + 7 years	W
Water quality laboratory tests (deep well water analysis detail and summary reports; chemical and bacteriological analysis of municipal drinking water detail and summary reports; municipal drinking water fluoride analysis; and water quality control readings)	EVT + 5 years (if information has been transferred to a permanent test site file location) EVT + 1 year	W
Maps showing the location and physical characteristics of the utility plant	EVT (until map is superseded)	W
Engineering records in connection with construction projects	EVT (until record is superseded or 6 years after plant is retired, provided mortality data are retained)	W
Operating records		
Station pumpage records	CR + 15 years or EVT + 3 years (after the source is abandoned)	W
Interruption records	CR + 6 years	W
Meter rest records	EVT (see PSC § 185.46, Wis. Adm. Code)	W
Meter history records	EVT (life of meter)	W
Annual meter accuracy summary	CR + 10 years	W

Records	Authority	SHSW Notice
	Period of Retention	
Pressure records	CR + 6 years	W
Customer records		
Complaint records	CR + 3 years	W
Customer deposit	EVT + 6 years (after refund)	W
Meter reading	CR + 6 years	W
Sheets or cards	CR + 6 years	W
Billing records	CR + 6 years	W
Filed rates and rules	Permanent	W
Analyses of any water samples taken from the water system	EVT + 10 years (pursuant to § NR 809.82, Wis. Adm. Code)	W

S.

Special assessment records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	SHSW Notice
	Period of Retention	
Preliminary resolution	CR + 2 years after created	W
Report on special assessment project	CR + 2 years after created	W
Waiver of special assessment notice and hearing	EVT + 1 year (after final resolution is approved)	W
Final resolution	Permanent	N/A
Certified special assessment roll	EVT (retain until all assessments are collected)	W
Statement of new special assessments	CR + 5 years	W
Special assessment payment register	EVT (retain until all assessments are collected)	W

T.

Street and highway records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	SHSW Notice
	Period of Retention	

	Authority	
Records	Period of Retention	SHSW Notice
Street operations file	CR + 2 years after created	W
Street and sidewalk maintenance and repair	CR + 25 years	W
Tree planting, inspection, trimming and removal	CR + 25 years	W
Stock control records	CR + 2 years	W
Fuel usage reports	CR + 2 years	W
Heavy equipment and vehicle	EVT (life of equipment and/or vehicle inventory ledger or until inventory ledger is superseded)	W
Vehicle maintenance histories	EVT (life of vehicle)	W
Vehicle expense reports	EVT (life of vehicle)	W
Vehicle usage reports	CR + 2 years	W
Payroll support records	CR + 2 years	W
Purchasing records	CR + 7 years	W
Complaint ledger	CR + 2 years	W
Monthly reports	CR + 3 years	W
Annual reports	Permanent	N/A

U.

Tax calculation records. The following public records may be destroyed after the expiration of the designated retention period:

	Authority	
Records	Period of Retention	SHSW Notice
Escrow account list	EVT (retain until superseded)	W
Receipts	FIS + 7 years	W
Receipt stub book	FIS + 7 years	W
Tax collection blotters	EVT (until audited)	W
Statement of taxes remaining unpaid	EVT (retain with tax roll)	W
Tax settlement receipt	FIS + 5 years	W
Municipal Treasurer's settlement	FIS + 5 years	W
Personal property tax roll	FIS + 15 years	N

V.

Treasurer's records. The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority	SHSW Notice
Minute books	Permanent	N/A
Audio tapes	CR + 1 year; 90 days if made solely for the purpose of drafting the minutes	W
Ordinances	Permanent	N/A
Resolutions	Permanent	N/A
Ordinance book	Permanent	N/A
Affidavits of publication	CR + 3 years	W

Chapter 176. TOWN BOARD

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as §§ 2-1-1, 2-1-2, 6-1-1 and 6-1-2 and Title 2, Ch. 3, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 23.

Town meeting — See Ch. 180.

§ 176-1. Legal status; general Town powers.

A.

The Town of McMillan, Marathon County, Wisconsin, is a body corporate and politic, with those powers granted by law. The Town shall be designated in all actions and proceedings by its name, as the Town of McMillan.

B.

The Town may:

(1)

Sue and be sued.

(2)

Acquire and hold real and personal property for public use and convey and dispose of the property.

(3)

Enter into contracts necessary for the exercise of its corporate powers.

§ 176-2. Village powers.

The Town Meeting having, by resolution adopted at an annual meeting on April 5, 1960, directed the Town Board to exercise all powers relating to villages and conferred on village boards by Ch. **61**, Wis. Stats., the Town of McMillan shall have said powers through its Board. This is a continuing grant of powers.

§ 176-3. Powers of Town Board with respect to public works.

A.

Without limitation because of enumeration, the Town Board may:

(1)

Acquire lands. Notwithstanding § 60.10(2)(e), Wis. Stats., acquire lands to lay, construct, alter, extend or repair any highway, street or alley in the Town of McMillan.

(2)

Streets, sewers and water mains. Provide for laying, constructing, altering, extending, replacing, removing or repairing any highway, street, alley, sanitary sewer, storm sewer or water main in the Town.

(3)

Sidewalks. Provide for construction, removal, replacement or repair of sidewalks under § 66.0907, Wis. Stats.

(4)

Lighting highways. Provide for lighting for highways, as defined under § 340.01(22), Wis. Stats., located in the Town.

(5)

Lake improvement. Provide for making improvements in any lake or waterway located in the Town.

B.

The McMillan Town Board may levy and collect special assessments and charges under §§ 66.0703 and 66.0721, Wis. Stats., and Chapter **75**, Article **II**, of this Code to pay for all or part of the cost of any public work or improvement. Special assessments may be paid under §§ 66.0709, 66.0713 and 66.0715, Wis. Stats. Reassessments shall be under § 66.0731, Wis. Stats.

§ 176-4. Election of Board members.

A.

Membership. The Town Board consists of four Supervisors of the Town of McMillan and the Chairperson. At the annual meeting on April 11, 1989, the Town Meeting directed that the number of Supervisors be increased by two, to a total of five, including the Chairperson.

B.

Elections.

(1)

There shall be elected one Supervisor from the Town at large who shall be designated as the "Chairperson" and whose term shall be for a period of two years.

(2)

Biennially in odd-numbered years, at the annual spring election, there shall be elected three members to the McMillan Town Board, one of whom shall be designated on the ballots as Chairperson and the other two elected as Supervisors, designated Supervisor 1 and Supervisor 2, respectively.

(3)

Biennially in even-numbered years, at the annual spring election, there shall be elected two Supervisors to the McMillan Town Board, designated Supervisor 3 and Supervisor 4, respectively. (Note: The additional two Supervisors were first elected at the April 1990 election.)

§ 176-5. General powers and duties.

The Town Board of the Town of McMillan has the specific authority, powers and duties, pursuant to §§ 60.10, 60.20, 60.22 and 60.23, Wis. Stats., and has, with authorization of the Town Meeting, additional statutory authority, powers and duties to manage and direct certain affairs of the Town of McMillan. In addition, the Town Board of the Town of McMillan has additional general and specific statutory authority, powers and duties established beyond Chapter 60, Wis. Stats., and as prescribed by this Code.

A.

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

B.

Charge of actions. The Town Board has charge of any action or legal proceeding to which the Town is a party.

C.

Village powers. As authorized under § 60.10(2)(c), Wis. Stats., and § **176-2** of this Code, the Town Board shall exercise powers relating to villages and conferred on village boards under Ch. **61**, Wis. Stats., except those powers which conflict with statutes relating to towns and town boards.

D.

Jurisdiction of Constable. Pursuant to the Wisconsin Statutes, the Town Board shall determine the jurisdiction and duties of the Town Constable.

E.

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

§ 176-6. Miscellaneous powers.

The Town Board may:

A.

Joint participation. Cooperate with the state, counties and other units of government under § 66.0301, Wis. Stats., including cooperative arrangements involving the acquisition, development, remodeling, construction, equipping, operation and maintenance of land, buildings and facilities for regional projects, whether or not located in the Town.

B.

Utility districts. Establish utility districts under § 66.0301, Wis. Stats., and provide that any convenience or public improvement in the district be paid for under that section. A utility district may be used when special services such as, but not limited to, streetlighting, sidewalks, sewers, water systems, etc., are to be installed in a particular area of the Town only.

C.

Appropriations for civic and other functions. If authorized under § 60.10(3)(b), Wis. Stats., appropriate reasonable amounts of money for gifts or donations to be used to:

(1)

Further civic functions and agricultural societies.

(2)

Advertise the attractions, advantages and natural resources of the Town.

(3)

Attract industry.

(4)

Establish industrial complexes.

(5)

Establish, maintain and repair ecological areas.

(6)

Provide for the organization, equipment and maintenance of a municipal band or for the employment of other bands to give concerts and municipal entertainment in the Town.

D.

Town industrial development agency. In order to promote and develop the resources of the Town, appropriate money for and create a Town industrial development agency or appoint an executive officer and provide staff and facilities for a nonprofit organization organized to act under this subsection. A Town industrial development agency created under this subsection and § 60.23(4), Wis. Stats., may:

(1)

Develop data regarding the industrial needs of, advantages of and sites in the Town.

(2)

Engage in promotional activities to acquaint prospective purchasers with industrial products manufactured in the Town.

(3)

Coordinate its activities with the county planning commission, the Wisconsin Economic Development Corporation, and private credit development organizations.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(4)

Engage in any other activity necessary for the continued improvement of the Town's industrial climate.

E.

Cooperation in county planning. Cooperate with the county in rural planning under §§ 27.019, 59.54(4) and (4m) and 59.69, Wis. Stats.

F.

Conservation of natural resources. If authorized by the Town Meeting under § 60.10(3)(a), Wis. Stats., appropriate money for the conservation of natural resources or for payment to a bona fide nonprofit organization for the conservation of natural resources within the Town or beneficial to the Town. No payment may be made to a nonprofit organization unless the organization submits and the Town Board approves a detailed plan of the work to be done. The plan shall include the name of the owner of any property on which work is to be performed.^[2]

[2]:

Editor's Note: Original Subsection (g), Obstructions in non-navigable waters, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

Emergency pest and disease control. Appropriate money for the control of insects, weeds or plant or animal diseases if:

(1)

An emergency arises within the Town due to insects, weeds or plant or animal diseases; and

(2)

The Board determines that any delay resulting from calling a Special Town Meeting to authorize the Town Board to appropriate money for this purpose under § 60.10(3)(c), Wis. Stats., would result in serious harm to the general welfare of the Town.

H.

Bowling alleys, pool tables and amusement devices. Regulate, including the licensing of, bowling alleys, billiard and pool tables and other amusement devices maintained in commercial facilities. If a license is required, the Board shall establish the term of the license, not to exceed one year, and the license fee. The Board may suspend or revoke, for cause, a license issued under this subsection. Any person violating a regulation

adopted under this subsection shall forfeit to the Town an amount established by the Town Board.

I.

Reimbursement of school districts for providing transportation in hazardous areas. Reimburse a school district for costs incurred by the district under § 121.54(9), Wis. Stats., in transporting pupils who reside in the Town.

J.

Exchange tax credit for county land. Authorize the Town Treasurer to exchange any credit the Town has with the county, arising from delinquent real estate taxes, for county-owned lands.

K.

Associations of towns. Appropriate money to purchase membership in any association of Town boards, Town officials or Town government for the protection of Town interests and improvement of Town government.

L.

Vacation of alleys. Vacate any alley in the Town under § 66.1003, Wis. Stats. The Town Board may not vacate, under this subsection, an alley adjacent to land fronting a state or county trunk highway.

M.

Cemeteries. Provide for cemeteries under Ch. 157, Wis. Stats.

N.

Change street names. Name, or change the name of, any street in the Town under § 82.03(7), Wis. Stats.^[3]

[3]:

Editor's Note: Original Subsection (p), Use of firearms, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

O.

Fences in subdivisions. Require a subdivider to construct a fence under § 90.02, Wis. Stats., on the boundary of a subdivision, as defined under § 236.02(8), Wis. Stats., as a condition of plat approval by the Town. The fence shall be maintained under § 90.05(2), Wis. Stats., and repaired under §§ 90.10 and 90.11, Wis. Stats.

P.

Disposition of dead animals. Notwithstanding §§ 59.54(21) and 95.50(3), Wis. Stats., dispose of any dead animal within the Town or contract for the removal and disposition with any private disposal facility. The Town may enter into a contract with any other governmental unit under § 66.0301, Wis. Stats., to provide for the removal and disposition. A town may recover its costs under this subsection by imposing a special charge under § 66.0627.^[4]

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 176-7. Town Board Chairperson.

A.

General powers and duties. The Town Board Chairperson shall:

(1)

Preside at Board meetings. Preside over meetings of the Town Board.

(2)

Preside at Town Meetings. Preside over Town Meetings as provided under § 60.13, Wis. Stats., and § **180-5** of this Code.

(3)

Sign documents.

(a)

Sign all ordinances, resolutions, bylaws, orders, regulations, commissions, licenses and permits adopted or authorized by the Town Board unless the Town Board, by ordinance, authorizes another officer to sign specific types of documents in lieu of the Chairperson. The Board, by ordinance, may authorize use of a facsimile signature.

(b)

Sign all drafts, order checks and transfer orders as provided under § 66.0607, Wis. Stats.

(4)

Assure administration of statutes. Supervise the administration of the Wisconsin Statutes relating to the Town and Town operations to see that they are faithfully executed.

(5)

Act on behalf of Board. Act, on behalf of the Town Board, to:

(a)

See that Town orders and ordinances are obeyed.

(b)

See that peace and order are maintained in the Town.

(c)

Obtain necessary assistance, if available, in case of emergency, except as provided under Ch. 323, Wis. Stats.

(6)

Act on authorization of Board. If authorized by the Town Board, act on behalf of the Board to:

(a)

Direct, as appropriate, the solicitation of bids and quotations for the Town's purchase of equipment, materials and services and submit the bids and quotations to the Town Board for approval. Although the Town Board may direct the Chairperson to solicit bids and quotations, the final decision as to which bid to accept or the decision to enter into a contract shall be made by the entire Board.

(b)

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

B.

Administer oaths. The Chairperson may administer oaths and affidavits on all matters pertaining to the affairs of the Town.

C.

Other responsibilities. In addition to the powers and duties under this section, the Chairperson has the following responsibilities:

(1)

Nominate election officials when the Town Board disapproves the nominee of a party committee under § 7.30(4)(b)2, Wis. Stats.

(2)

Serve as caucus official under § 8.05(1)(c), Wis. Stats.

(3)

Sue on official bonds under § 19.015, Wis. Stats.

(4)

Execute and sign a certificate of indebtedness in connection with obtaining a state trust fund loan under § 24.67, Wis. Stats.

(5)

Serve as Town fire warden under §§ 26.13 and 26.14, Wis. Stats.

(6)

Appoint members of library boards under §§ 43.54(1)(a) and 43.60(3), Wis. Stats.

(7)

Exercise the powers and duties specified for a mayor under § 62.13, Wis. Stats., if the Town creates a joint board of police and fire commissioners or joint police or fire department with a village under § 61.65(3g)(d)2, Wis. Stats., or a board of police and fire commissioners under § 60.57, Wis. Stats.

(8)

Provide an annual estimate of funds necessary for any utility district established under § 66.0827(2), Wis. Stats.

(9)

Publish annually a notice regarding noxious weeds and appoint one or more commissioners of noxious weeds under § 66.0517, Wis. Stats.^[1]

[1]:

Editor's Note: Original Subsection (c)(10), regarding signing general obligation bonds, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(10)

If authorized by the Town Board, represent the interests of the Town in connection with appearances before the State Tax Appeals Commission under § 70.64(5), Wis. Stats.

(11)

Approve the bond of the Town Clerk delivered to the County Treasurer under § 70.67(1), Wis. Stats.^[2]

[2]:

Editor's Note: Original Subsection (c)(13), regarding selection of jurors in actions relating to the taking of property, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(12)

Sign orders for payment of work performed and materials furnished on Town highways.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(13)

See that all tunnels in the Town are constructed under § 82.37 Wis. Stats., and that they are kept in good repair.

(14)

If applicable, serve as a member of the County Highway Committee under § 83.015(1)(d), Wis. Stats.

(15)

If applicable, close county trunk highways when rendered dangerous for travel and notify the Highway Commissioner under § 83.09, Wis. Stats.

(16)

If applicable, appoint members to airport commissions under § 114.14(2), Wis. Stats.^[4]

[4]:

Editor's Note: Original Subsection (c)(19), regarding school districts, and Subsection (c)(20), regarding jewelry auction sales, which immediately followed this subsection, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(17)

Under § 167.10, Wis. Stats., enforce regulation of fireworks.

(18)

Perform the Town Chairperson's duties related to stray animals and lost goods under Ch. 170, Wis. Stats.

(19)

Perform the Town Chairperson's duties related to distrained animals under Ch. 172, Wis. Stats.

(20)

Perform the Town Chairperson's duties related to animals that have caused damage in the Town under Ch. 172, Wis. Stats.

(21)

If applicable, perform the Town Chairperson's duties related to municipal power and water districts under Ch. 198, Wis. Stats.

(22)

If applicable, cause actions to be commenced for recover of forfeitures for violations of Town ordinances that can be recovered in municipal court under § 778.11, Wis. Stats.

(23)

If applicable, notify the district attorney of forfeitures which may not be recovered in municipal court under § 778.12, Wis. Stats.

(24)

Approve bonds furnished by contractors for public works under § 779.14(1m), Wis. Stats.

§ 176-8. Internal powers.

The Town Board has power to preserve order at its meetings, compel attendance of Supervisors and punish nonattendance.

§ 176-9. Regular meetings.

Regular meetings of the Town Board of the Town of McMillan will be held at the McMillan Town Hall or McMillan Fire Station, as posted, at 8:00 p.m. on the 2nd Monday of each month, or as otherwise determined by the Town Board. Any regular meeting of the Town Board falling upon a legal holiday shall be held on the day designated by the Town Board. Any meeting of the Town Board, including any special or adjourned meetings that are not held at the Town Hall or Fire Station but at any other substitute location, shall be designated by the Town Chairperson or his or her designee, in compliance with the Open Meeting Law,¹ by posting a proper written notice of the substituted location at the three usual and customary posting locations likely to give notice. This notice shall occur at least 24 hours prior to the meeting of the Town Board, unless in an emergency wherein the proper notice posting shall occur at least two hours prior to the meeting of the Town Board.

[1]:

Editor's Note: See §§ 19.81 to 19.98, Wis. Stats.

§ 176-10. Special meetings.

A.

Any special meeting of the Town Board may be called by the Chairperson or two members of the Town Board of the Town of McMillan in writing with the written call for the special meeting of the Town Board filed with the Town Clerk at least 24 hours prior to the proposed special meeting of the Town Board with the time specified in the written call for the special meeting.

B.

No special meeting of the Town Board shall be held unless the notice requirements of the State Open Meeting Law, pursuant to § 19.84, Wis. Stats., have been complied with by the person or persons requesting the public meeting.

C.

The Town Clerk, upon receipt of the written call for the special meeting of the Town Board, shall immediately notify, in writing, each member of the Town Board by delivering the written notice or by having the written notice delivered personally to each member of the Town Board. If any member of the Town Board cannot be personally notified in writing, then the Town Clerk shall deliver or have delivered a copy of the written notice at the home of any such member of the Town Board in the presence of an adult member of the family of the Town Board member. If any member of the Town Board cannot be noticed in writing through an adult family member as noted above, then the Town Clerk shall post such special meeting written notice in the above-noted three usual and customary locations.

D.

The Town Clerk shall file proof of service of such special meeting notice by filing an affidavit noting the time, place and location of authorized service of the special meeting notice upon the Town Board. If personal service upon any member of the Town Board was not completed, then the Town Clerk shall so state in the affidavit the type of service or written notice completed.

E.

Special meetings of the Town Board may be held without such service and notice when all members of the Town Board are present in person or consent in writing to holding of any special meeting of the Town Board. Any consent by any member of the Town Board shall be filed by the Town Clerk prior to the beginning of any special meeting of the Town Board.

F.

Special meetings of the Town Board attended by a quorum of the members shall be considered a regular meeting of the Town Board for the transaction of any Town of McMillan business that may come before the Town Board if such regular Town business was so noted in the written notice to the public as required by the State Open Meeting Law, § 19.84, Wis. Stats.

§ 176-11. Open meetings.

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

§ 176-12. Quorum.

A majority of the Board shall constitute a quorum, but a lesser number may adjourn if a majority is not present. The Chairperson shall be counted in determining whether a

quorum exists. If no legal quorum is present at the time of the initial roll call, the meeting of the Town Board shall be thereon adjourned by the members of the Town Board present to a specific date and hour.

§ 176-13. Presiding officer; absence of Chairperson or Clerk.

A.

Chairperson to preside. The Chairperson shall preside at all meetings of the Town Board when present.

B.

Absence of Chairperson at call to order of meeting.

(1)

If the Town Chairperson is not present at the time for the call to order, the senior member of the Town Board present, based on date of original election as a member of the Town Board, shall call the meeting of the Town Board to order, call the initial roll call and shall preside until the Town Chairperson is able to preside at the meeting of the Town Board.

(2)

If the Town Chairperson will not be able to, at any time, preside at the meeting, the Town Board shall make this determination after the initial roll call and then by motion elect an acting Town Chairperson for the meeting of the Town Board until the Town Chairperson is able to preside at the meeting.

C.

Absence of Town Clerk at meeting. If the Town Clerk is not present at the time of the initial roll call of the meeting of the Town Board, the Town Chairperson shall appoint the Deputy Clerk or any other person present at the meeting to be the Town Clerk pro tem. The Town Clerk pro tem shall prepare and maintain minutes of the meeting of the Town Board. The Town Clerk pro tem shall deliver these minutes to the Town Clerk after the end of the meeting of the Town Board or when the Town Clerk pro tem is replaced during the meeting of the Town Board by the Town Clerk.

§ 176-14. Order of business.

A.

Order of business. At all meetings, the following order may be observed in conducting the business of the Town Board:

(1)

Call to order by presiding officer;

(2)

Roll call;

(3)

Reading and correcting the financial report and the minutes of the last preceding meeting or meetings;

(4)

Reports from officials of the Town;

(5)

Reports from committees;

(6)

Unfinished business remaining from preceding sessions in the order in which it was introduced;

(7)

New business; ordinances and resolutions may be introduced and considered;

(8)

Business as may be presented by the Chairperson and Supervisors;

(9)

Presentation of petitions, memorials, remonstrances, and communications;

(10)

Miscellaneous;

(11)

Adjournment.

B.

Agenda preparation.

(1)

The Town Clerk shall prepare an agenda incorporating the matters comprising the order of business;

(2)

There be included on said agenda a time for hearing citizens wishing to address the Board; and

(3)

No matter requiring research, investigation or decision shall be placed on the agenda of the Town Board unless a request to do so is made to the Town Clerk at least three business days prior to the meeting (except in emergency situations as determined by the Chairperson or Town Clerk), nor shall the agenda be amended to include said matter, except when the members of the Board unanimously agree to the agenda addition.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Order to be followed; citizen comments.

(1)

Any member of the Town Board may take up any business on the agenda in an order other than as described in the agenda unless there is an objection by any other member of the Town Board.

(2)

Addressing the Board.

(a)

At meetings of the Town Board no person, other than the members of this Board, shall address the Town Board or any member of the Town Board. This provision shall not apply to:

[1]

The Town Clerk.

[2]

The Town Treasurer.

[3]

The Town Constable.

[4]

Any member of the Town Board.

[5]

Town Engineer or Town Attorney.

(b)

This provision shall also not apply under the specific orders of business established to recognize residents of the Town or other persons, under the specific order of business to recognize members of any Town office, Town committee, Town agency, Town commission or a special board or other Town officers or except if the person has specifically requested the right to address the Town Board and then only after the approval of the presiding officer.

(c)

The Chairperson or presiding officer may impose a time limit on the length of time citizens may address the Board, following the guidelines in § **176-17**.

D.

Roll call; procedure when quorum not in attendance. As soon as the Board shall be called to order, the Clerk shall proceed to call the names of the members of alphabetical order, noting who are present and who are absent and record the same in the proceedings of the Board. If it shall appear that there is not a quorum present, the fact shall be entered on the journal and the Board may adjourn.

§ 176-15. Introduction of business; disposition of communications.

A.

Ordinances to be in writing. All ordinances submitted to the Board shall be in writing and shall include at the outset a brief statement of the subject matter and a title. All written material introduced shall be read and then discussed and acted upon as the Board deems appropriate.

B.

Subject and numbering of ordinances. Each ordinance shall be related to no more than one subject. Amendment or repeal of ordinances shall only be accomplished if the amending or repealing ordinance contains the number and title of the ordinance to be amended or repealed, and the title of amending and repealing ordinances shall reflect their purpose to amend or repeal.

C.

Notice.

(1)

The Town Board may take action on an ordinance only if it appears on the written agenda for the meeting at which action is requested in order to provide proper legal notice.

(2)

Ordinances will be placed on the agenda for Board action only if they are submitted to the Town Clerk in written form a minimum of three days prior to the meeting at which action is requested (except in emergency situations as determined by the Chairperson or Town Clerk).

D.

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

§ 176-16. Conduct of deliberations.

A.

A roll call shall not be necessary on any questions or motions except as follows:

(1)

When the ayes and nos are requested by any member.

(2)

On confirmation and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the Town or any fund thereof.

(3)

When requested by the State Statutes of Wisconsin.

B.

All aye and nay votes shall be recorded in the official minutes.

C.

Except as provided below, the Town Board shall, in all other respects, determine the rules of its procedure, which shall be governed by Robert's Rules of Order, which is hereby incorporated by reference, unless otherwise provided by ordinance or statute, except when otherwise limited or modified by this Code.¹⁴

(1)

No Supervisor shall address the Board until he/she has been recognized by the presiding officer. The Supervisor shall thereupon address himself/herself to the Chairperson and confine his/her remarks to the question under discussion and avoid all personalities.

(2)

When two or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 176-17. Procedure at public hearings.

A.

The Chairperson shall call on those persons who wish to speak for the proposition. Each person wishing to speak for the proposition shall give his or her name and address.

B.

Each person speaking on behalf of the proposition shall be limited in time of five minutes.

C.

The Chairperson shall then call on those persons who wish to oppose the proposition.

D.

Each such person wishing to speak in opposition to the proposition shall give his or her name and address and shall also be limited to five minutes.

E.

Any person wishing to speak in rebuttal to any statements made may, with the permission of the Chairperson, do so; provided, however, that such rebuttal statement shall be limited to three minutes by any one individual.

F.

When the Chairperson, in his discretion, is satisfied that the proposition has been heard, he/she shall announce the fact that the hearing is concluded.

§ 176-18. Motions; voting.

A.

Motions stated. Prior to any debate on a matter, the members of the Town Board shall be entitled to a clear understanding of the motion before the Town Board. The person making the motion shall clearly state the motion. There shall be a second to any motion prior to any debate or discussion of the motion. Motions made in writing by a member of the Town Board and provided to the Town Clerk prior to the meeting shall be provided priority in the appropriate order of business. The Town Chairperson may, if felt necessary, restate the motion prior to any debate and discussion. Any member of the Town Board, prior to a vote on the motion, may request that the motion and any amendments adopted to the motion be reduced to writing and submitted in writing to the members of the Town Board prior to the final vote on the matter.

B.

Change of vote. No member of the Town Board may change his or her vote on any action item, business item, motion or question after the final result has been announced.

C.

Motions with preference. During any meeting of the Town Board certain motions will have preference. In order of precedence, they are:

(1)

Motion to adjourn. This motion can be made at any time and has first precedence. This is a nondebatable motion.

(2)

Motion to lay on the table. This motion may be made when the subject matter appropriate for tabling is to be debated or discussed. This motion is a nondebatable motion.

(3)

Motion to call previous question. This motion may be made at any time after the debate or discussion commences related to an action item, business item, motion or question that is properly before the Town Board. This motion is a nondebatable motion. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. The motion, if adopted, brings the Town Board to a direct vote with the first vote on amendments, if any, and then on the main action item, business item, motion or question.

(4)

Motion to postpone to a date certain. This motion may be made at any time after the debate and discussion commences on an action item, business item, motion or question that is properly before the Town Board. This motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. This motion must establish a date and time certain when the debate and discussion before the Town Board will continue. The date and time established must be on a date and time for a regularly scheduled or special meeting of the Town Board.

(5)

Motion to a committee. This motion may be made at any time after the debate and discussion commences on an action item, business item, motion or question that is properly before the Town Board. The motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. This motion, if adopted, forwards the action item, business item, motion or question to a committee for further review and discussion. The committee must be a committee of the Town Board.

(6)

Motion to amend or divide the question. This motion may be made at any time after debate and discussion commences on the action item, business item, motion or question properly before the Town Board. The motion is debatable. This motion, if adopted, divides the main action item, main business item, main motion or main question pursuant to the method described and adopted in the motion to divide.

(7)

Motion to postpone indefinitely. This motion may be made at any time after debate and discussion on the action item, business item, motion or question properly before the Town Board. This motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question.

(8)

Motion to introduce a matter related to the action item, business item, motion or question. This motion may be made at any time after the debate and discussion commences on the action item, business item, motion or question properly before the Town Board. This motion is debatable. This motion, if adopted, expands or adds to the debate and discussion new items related to the main action item, main business item, main motion or main question pursuant to the method described and approved in the motion to introduce a matter related.

D.

Public directory votes. No member of the Town Board shall request, at a meeting of the Town Board, a vote from the general public unless the proposed vote of the general public is so noted by the Town Chair or the presiding officer of the meeting as strictly an advisory vote to the Board. Any vote taken by the general public at a meeting of the Town Board shall be considered by this Board only as an advisory vote and shall not be considered as a directory vote. Directory votes to require certain actions to be taken by the Town Board may occur at an Annual or Special Town Meeting.

§ 176-19. Reconsideration of questions.

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

§ 176-20. Publication or posting of ordinances and resolutions.

A.

General requirement. The Town Clerk shall publish as a Class 1 notice under Ch. 985, Wis. Stats., or post in at least three places in the Town likely to give notice to the public, the following, within 30 days after passage or adoption:

(1)

Resolutions, motions and other actions adopted by the Town Meeting, or in the exercise of powers, under § 60.10, Wis. Stats.

(2)

Ordinances adopted by the Town Board.

(3)

Resolutions of general application adopted by the Town Board and having the effect of law.

B.

Requirement for forfeitures. If an ordinance imposes forfeiture, posting may not be used in lieu of publication under Subsection A.

C.

Effective upon publication. An ordinance, resolution, motion or other action required to be published or posted under this section shall take effect the day after its publication or posting, or at a later date if expressly provided in the ordinance, resolution, motion or action.

D.

Affidavit of posting. If an ordinance, resolution, motion or other action is posted under this section, the Clerk shall sign an affidavit attesting that the item was posted as required by this section and stating the date and place of posting. The affidavit shall be filed with other records under the jurisdiction of the Clerk.

§ 176-21. Amendment of rules.

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

§ 176-22. Suspension of rules.

Any of the provisions of §§ 176-16 through 176-19, inclusive, of this chapter may be suspended temporarily by a majority of the Board members present at any meeting.

Chapter 180. TOWN MEETING

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 2, Ch. 2, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. **23**.
Notices — See Ch. **121**.
Town Board — See Ch. **176**.

§ 180-1. Definitions.

In this Code, the following terms shall have the meanings indicated:

ANNUAL TOWN MEETING

The Town Meeting held under § 60.11, Wis. Stats.

SPECIAL TOWN MEETING

A Town Meeting, other than the Annual Town Meeting, held under § 60.12, Wis. Stats.

TOWN MEETING

The Annual Town Meeting or a Special Town Meeting.

§ 180-2. Powers of Town Meeting.

A.

Direct powers. Town Meeting may:

(1)

Raise money. Raise money, including levying taxes, to pay for expenses of the Town, unless the authority has been delegated to the Town Board under Subsection **B(1)** below.

(2)

Town offices and officers.

(a)

Fix the compensation of elective Town offices under § 60.32, Wis. Stats., unless the authority has been delegated to the Town Board under Subsection **B(10)** below.

(b)

Combine the offices of Town Clerk and Town Treasurer under § 60.305(1), Wis. Stats.

(c)

Combine the offices of Town Assessor and Town Clerk under § 60.305(2), Wis. Stats.

(d)

Establish or abolish the office of Town Constable and establish the number of constables. Abolition of the office is effective at the end of the term of the person serving in the office.

(e)

Designate the office of Town Clerk, Town Treasurer or the combined office of Clerk and Treasurer as part time under § 60.305(1)(b), Wis. Stats.

(3)

Election of Town officers.

(a)

Adopt a plan under § 5.60(6), Wis. Stats., to elect Town Board Supervisors to numbered seats.

(b)

Provide under § 8.05(3)(a), Wis. Stats., for the nomination of candidates for elective Town offices at a nonpartisan primary election.¹⁴

[1]:

Editor's Note: Original Subsection (a)(4), Public waterways, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(4)

Cemeteries. Authorize the acquisition and conveyance of cemeteries under § 157.50(1) and (3), Wis. Stats.

(5)

Administrator agreements. Approve agreements to employ an administrator for more than three years under § 60.37(3)(d), Wis. Stats.

B.

Directives or grants of authority to Town Board. Except as provided under Subsection C, directives or grants of authority to the Town Board under this subsection may be general and continuing or may be limited as to purpose, effect or duration. Resolutions adopted by a Town Meeting directing or authorizing the Town Board to exercise one of the optional powers of this subsection shall include language that makes the intent of those attending the Town Meeting clear. A resolution adopted under this subsection shall specify whether the directive or grant is general and continuing or whether it is limited as to purpose, effect or duration. A resolution that is continuing remains in effect until rescinded at a subsequent Town Meeting by a number of electors equal to or greater than the number of electors who voted for the original resolution. This subsection does not limit any authority otherwise conferred on the Town Board by law. By resolution, the Town Meeting may:

(1)

Raise money. Authorize the Town Board to raise money, including levying taxes, to pay for expenses of the Town.

(2)

Membership of Town Board in populous towns. If the Town has a population of 2,500 or more, direct the Town Board to increase the membership of the Board under § 60.21(2), Wis. Stats.

(3)

Exercise of village powers. Authorize the Town Board to exercise powers of a village board under § 60.22(3), Wis. Stats. A resolution adopted under this subsection is general and continuing.

(4)

General obligation bonds. Authorize the Town Board to issue general obligation bonds in the manner and for the purposes provided by law.

(5)

Purchase of land. Authorize the Town Board to purchase any land within the Town for present or anticipated Town purposes.

(6)

Town buildings. Authorize the Town Board to purchase, lease or construct buildings for the use of the Town, to combine for this purpose the Town's funds with those of a society or corporation doing business or located in the Town and to accept contributions of money, labor or space for this purpose.

(7)

Disposal of property. Authorize the Town Board to dispose of Town property, real or personal, other than property donated to and required to be held by the Town for a special purpose.

(8)

Watershed protection and soil and water conservation. Authorize the Town Board to engage in watershed protection, soil conservation or water conservation activities beneficial to the Town.

(9)

Appointed assessors. Authorize the Town Board to select assessors by appointment under § 60.307(2), Wis. Stats.

(10)

Compensation of elective Town offices. Authorize the Town Board to fix the compensation of elective Town offices under § 60.32(1)(b), Wis. Stats.

C.

Authorization to Town board to appropriate money. The Town Meeting may authorize the Town Board to appropriate money in the next annual budget for:

(1)

Conservation of natural resources. The conservation of natural resources by the Town or by a bona fide nonprofit organization under § 60.23(6), Wis. Stats.

(2)

Civic functions. Civic and other functions under § 60.23(3), Wis. Stats.

(3)

Insects, weeds and animal diseases. The control of insect pests, weeds or plant or animal diseases within the Town.

(4)

Rural numbering systems. Posting signs and otherwise cooperating with the county in establishment of a rural numbering system under § 59.54(4) and (4m), Wis. Stats.

(5)

Cemetery improvements. The improvement of a Town cemetery under § 157.50(5), Wis. Stats.

§ 180-3. Annual Town Meeting.

A.

Requirement. The Town of McMillan shall hold an Annual Town Meeting as provided in this section.

B.

When held.¹²¹

(1)

Except as provided in Subsection **B(2)** below, the Annual Town Meeting shall be held on the third Tuesday of April.

(2)

The Annual Town Meeting may set a date different than provided under Subsection **B(1)** above for the next Annual Town Meeting if the date is within 10 days after the third Tuesday of April.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Where held.

(1)

The Annual Town Meeting may be held in the town or in any other town, village, or city in the same county or in an adjoining county.¹²²

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

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

D.

Adjournment. The Annual Town Meeting may be recessed to a time and date certain if the resumed meeting is held within 30 days after the date of the meeting originally scheduled under Subsection **B**. Business not acted on at the Annual Meeting, or within the 30 days allowed for adjourning and reconvening the meeting, shall be left to the next Annual Meeting or taken up by a Special Town Meeting convened under § 60.12, Wis. Stats.

E.

Notice. No public notice of the Annual Town Meeting is required if held as provided under Subsection **B(1)**. If held as provided under Subsection **B(2)**, notice of the time and date of the meeting shall be given under § 60.12(3), Wis. Stats.

F.

Jurisdiction. The Annual Town Meeting may transact any business over which the Town Meeting has jurisdiction.

G.

Poll list. The Annual Town Meeting may require the Clerk of the Town Meeting to keep a poll list with the name and address of every elector voting at the meeting.

§ 180-4. Special Town Meetings.

A.

Who may convene. A Special Town Meeting may be convened if:

(1)

Called by a Town Meeting.

(2)

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

(3)

Called by the Town Board.

B.

Time, date and purpose to be stated. If a Special Town Meeting is requested or called under Subsection A, the time, date and purpose of the meeting shall be stated in the request or as part of the call.

C.

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

D.

Location.

(1)

A Special Town Meeting may be held in the town or in any other town, village, or city in the same county or in an adjoining county.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

A Special Town Meeting shall be held where the preceding Annual Town Meeting was held, unless the location is changed by the Town Board.

E.

Adjournment. A Special Town Meeting may be recessed to a time and date certain if the resumed meeting is held within 30 days after the date of the originally scheduled meeting.

F.

Jurisdiction. Any business which may be transacted at an Annual Town Meeting may be transacted at a Special Town Meeting.

§ 180-5. Presiding officer at Town Meetings.

A.

Who presides.

(1)

If present, the Town Board Chairperson shall chair the Town Meeting, as defined in § **180-1**. If the Town Board Chairperson is absent, another Town Board Supervisor shall chair the Town Meeting. If no Town Board Supervisor is present, the Town Meeting shall elect the Chairperson of the meeting.

(2)

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

B.

Duties. The Town Meeting Chairperson shall conduct the meeting's proceedings in accordance with accepted parliamentary procedure.

C.

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

§ 180-6. Procedure at all Town Meetings.

A.

Qualified voters. Any qualified elector of the Town, as defined under Ch. 6, Wis. Stats., may vote at a Town Meeting.[Ⓜ]

[1]:

*Editor's Note: Original Subsection (b), providing a definition of "qualified elector," which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

B.

Method of action; necessary votes. All actions of a Town Meeting shall be by vote. All questions shall be decided by a majority of the electors voting.

C.

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

D.

Reconsideration of actions.

(1)

A vote of the town meeting may be reconsidered at the same meeting at which the vote was taken if the town meeting votes to reconsider within one hour after the initial vote was taken.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

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

§ 180-7. Clerk of Town Meetings.

The Town Clerk shall serve as Clerk of the Town Meeting. If the Town Clerk is absent, the Deputy Town Clerk, if the Town has one, shall serve as Town Meeting Clerk. If the Deputy Clerk is absent, the Town Meeting Chairperson shall appoint a Clerk of the meeting. The Clerk of the Town Meeting shall keep a poll list if required by the Annual Town Meeting under § 60.11(7), Wis. Stats. The Clerk of the Town meeting shall keep minutes of the proceedings. The Town Meeting minutes shall be signed by the Clerk of the Town Meeting and filed in the office of the Town Clerk within five days after the meeting.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

PART II: GENERAL LEGISLATION

Chapter 214. ANIMALS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 7, Ch. 1, of the 2000 Code. Amendments noted where applicable.]

§ 214-1. Definitions.

In this chapter, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

ANIMAL

Mammals, reptiles and birds.

AT LARGE

To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.

CAT

An feline, regardless of age or sex.

CRUEL

Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

DOG

Any canine, regardless of age or sex.

FARM ANIMAL

Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

LAW ENFORCEMENT OFFICER

Has that meaning as appears in § 967.02(5), Wis. Stats., and includes a humane officer under § 173.03, Wis. Stats., but does not include a conservation warden appointed under § 23.10, Wis. Stats.

NEUTERED

As used herein as describing a dog or cat, shall mean a dog or cat having nonfunctional reproductive organs.

OWNER

Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of 10 days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this chapter.

PET

An animal kept and treated as a pet.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 214-2. Rabies vaccination required for license.

A.

Rabies vaccination. The owner of a dog shall have the dog vaccinated against rabies by a veterinarian at no later than five months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of McMillan after the dog has reached five months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination.

The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within three years after the previous vaccination. The certificate of vaccination shall meet the requirements of § 95.21(2), Wis. Stats.¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Issuance of certificate of rabies vaccination. A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Town stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services and the Town.

C.

Copies of certificate. The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.

D.

Rabies vaccination tag. After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

E.

Tag to be attached. The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this subsection do not apply to a dog which is not required to be vaccinated under Subsection A.

F.

Duplicate tag. The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.

G.

Cost. The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

§ 214-3. Issuance of dog and kennel licenses.

A.

Dog licenses.

(1)

It shall be unlawful for any person in the Town of McMillan to own, harbor or keep any dog more than five months of age without complying with the provisions of §§ 174.05 through 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(2)

The owner of any dog more than five months of age on January 1 of any year, or five months of age within the license year, shall annually, or on or before the date the dog becomes five months of age, pay a license tax and obtain a license.

(3)

The minimum license tax under this section shall be in accordance with Chapter 72, Fees.

(4)

Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by § 214-2 of this chapter, the Town Treasurer or his/her deputy shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Treasurer or his/her deputy shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(5)

The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in § 214-2E.

(6)

The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any Town law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached. Each day that any dog within the Town of McMillan continues to be unlicensed constitutes a separate offense for which a separate penalty applies.

(7)

Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Town Treasurer or his/her deputy upon application therefor.

B.

Kennel licenses.

(1)

Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax in accordance with Chapter 72, Fees, for a kennel. Upon payment of the required kennel license tax and, if required by the Town Board, upon presentation of evidence that all dogs over five months of age are currently immunized against rabies, the Town Treasurer or his deputy shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel.

(2)

The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five months old kept by the owner or keeper under a kennel license, but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times, but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

§ 214-4. Late fees.

The Town Treasurer shall assess and collect a late fee as provided in Chapter 72, Fees, from every owner of a dog five months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within 30 days of acquiring ownership of a licensable dog, or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 214-5. Rabies quarantine.

A.

Dogs and cats confined. If a district or neighborhood is quarantined for rabies, all dogs and cats within the Town shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Town Clerk shall promptly post in at least three public places in the Town notices of quarantine.

B.

Exemption of vaccinated dog or cat from Town quarantine. A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies

vaccination or other evidence, is exempt from the Town quarantine provisions of Subsection A if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

C.

Quarantine or sacrifice of an animal suspected of biting a person or being infected or exposed to rabies.

(1)

Quarantine or sacrifice of dog or cat. A law enforcement, humane or animal control officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2)

Sacrifice of other animals. A law enforcement, humane or animal control officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

D.

Quarantine of dog or cat.

(1)

Delivery to isolation facility or quarantine on premises of owner. A law enforcement, humane or animal control officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(2)

Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least 10 days after the incident occurred. In this subsection, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3)

Risk to animal health.

(a)

If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently

immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.

(b)

If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4)

Sacrifice of a dog or cat exhibiting symptoms of rabies. If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

E.

Delivery of carcass; preparation; examination by laboratory of hygiene. An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Town, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

F.

Cooperation of veterinarian. Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Town, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

G.

Responsibility for quarantine and laboratory expenses. The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

§ 214-6. Restrictions on keeping of dogs, cats, fowl and other animals.

A.

Restrictions. It shall be unlawful for any person within the Town of McMillan to own, harbor or keep any dog, cat, fowl or other animal which:

(1)

Habitually pursues any vehicle upon any public street, alley or highway in the Town.

(2)

Assaults or attacks any person or destroys property.

(3)

Is at large off the owner's property within the limits of the Town.

(4)

Habitually barks or howls to the annoyance of any person or persons. (See § 214-10.)

(5)

Kills, wounds or worries any domestic animal.

(6)

Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(7)

In the case of a dog, is unlicensed.

B.

Vicious dogs and animals.

(1)

For purposes of enforcing this section, a dog shall be deemed as being of a vicious disposition if, within any twelve-month period, it bites two or more persons or inflicts serious injury to one person in unprovoked circumstances off the owner's premises, or if a signed statement from a complainant is filed with the Town Board. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the law enforcement authorities.

(2)

No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

C.

Animals running at large.

(1)

No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Town in such manner as to interfere with the passing public or neighbors. The owner of any animal, whether licensed or unlicensed, shall

keep his/her animal tied, enclosed in a proper enclosure, or otherwise be controlled so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Town ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.

(2)

A dog shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it or engaged in the legal act of hunting.

D.

Owner's liability for damage caused by dogs; penalties. The provisions of § 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs, together with the penalties therein set forth, are hereby adopted and incorporated herein by reference.

E.

Animal feces. The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private residential property, unless such matter is immediately removed therefrom by said owner or person in charge. This section shall not apply to a person who is visually or physically handicapped.

§ 214-7. Impoundment of animals.

A.

Animal control agency.

(1)

The Town of McMillan may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impounded animals and for assisting in the administration of rabies vaccination programs.

(2)

The Town of McMillan does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this section.

B.

Impounding of animals. In addition to any penalty hereinafter provided for a violation of this chapter, any law enforcement or humane officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Town, assaults or attacks any person, is at large within the Town, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Town for any damages it sustains for improper or illegal seizure.

C.

Claiming animal; disposal of unclaimed animals. After seizure of animals under this section by a law enforcement or humane officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner is known to the officer or can be ascertained with reasonable effort. If within seven days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner, provided that, if an animal before being impounded has bitten a person, the animal shall be retained in an animal shelter under a veterinarian's supervision for 10 days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Town Board. No animal shall be released from the pound without being properly licensed if so required by state law or Town ordinance.

D.

Sale of impounded animals. If the owner does not reclaim the animal within seven days, the animal control agency may sell the animal to any willing buyer.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Town not liable for impounding animals. The Town and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this section.

§ 214-8. Dogs and cats restricted on cemeteries.

No dog or cat shall be permitted in any public cemetery. Every dog specially trained to lead blind or hearing impaired persons shall be exempt from this section.

§ 214-9. Duty of owner in case of dog or cat bite.

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to a law enforcement, humane or animal control officer and shall keep such dog or cat confined for not less than 14 days or for such period of time as a law enforcement, humane or animal control officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

§ 214-10. Barking dogs or crying cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in

violation of this section when two formal, written complaints are filed with the Town Constable within a six-week period.¹⁴

[1]:

Editor's Note: Original Sec. 7-1-11, Sale of rabbits, chicks or artificially colored animals, Sec. 7-1-12, Providing proper food and drink to confined animals, and Sec. 7-1-13, Providing proper shelter, which immediately followed this section, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 214-11. Neglected or abandoned animals.

A.

Neglected or abandoned animals.

(1)

No person may abandon any animal.

(2)

Any law enforcement officer may remove, shelter and care for an 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.

(3)

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, it may be treated as a stray and dealt with as such.

(4)

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 and the owner thereof shall not recover damages for the killing of such animal unless he/she shall prove that such killing was unwarranted.

(5)

Section 173.10, Investigation of cruelty complaints, and § 173.24, Reimbursement for expenses, of the Wisconsin Statutes are hereby adopted by reference and made a part of this chapter.

B.

Injured animals. No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Town or any animal control agency with which the Town has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

§ 214-12. Cruelty to animals and birds prohibited.

A.

Acts of cruelty prohibited. No person except a law enforcement, health or humane officer in the pursuit of his/her duties shall, within the Town, commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs. Any lawful act involved in the practice of hunting is not herein prohibited.¹³

[1]:

Editor's Note: Original Subsection (b), Leading animal from motor vehicle, and Subsection (c), Use of poisonous and controlled substances, Subsection (d), Use of certain devices prohibited, and Subsection (e), Shooting at caged or staked animals, which immediately followed this subsection, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 214-13. Violations and penalties.

A.

Any person violating §§ **214-11** and **214-12** shall be subject to a forfeiture of not less than \$50 and not more than \$200. This section shall also permit the Town Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this chapter.

B.

Anyone who violates §§ **214-1**, **214-2**, **214-3**, **214-4** and **214-5** [except § **214-5D(1)**] or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than \$25 and not more than \$200 for the first offense and not less than \$100 and not more than \$400 for any subsequent offenses.

C.

An owner who refuses to comply with an order issued under § **214-5D(1)** to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than \$100 nor more than \$1,000.¹³

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Any person who violates §§ **214-6** through **214-10** shall be subject to a forfeiture of not less than \$25 and not more than \$100 for the first violation and not less than \$50 and not more than \$200 for subsequent violations.

Chapter 223. ASSEMBLIES, MASS PUBLIC

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 7, Ch. 8, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Intoxicating liquor and fermented malt beverages — See Ch. **332**.

Peace and good order — See Ch. **389**.

§ 223-1. Intent.

A.

It is the purpose of the Town Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Town of McMillan, in order that the health, safety and welfare of all residents and visitors alike may be protected.

B.

The purpose and intent of this chapter is to establish site approval for locations in the Town of McMillan used temporarily for large gatherings, as defined in § 223-2 below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this chapter should be the subject of a public gathering permit issued only after public hearing and a determination by the Town Board that there will be compliance with the standards set forth in this chapter.

§ 223-2. Scope.

This chapter shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than 650 persons for a one-day event and greater than 500 persons for a two-day or more event. The requirement for a public gathering permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies or to church picnic events which do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held. It does not apply to any fund-raising event of the Town of McMillan Fire Department or other agent of the Township.

§ 223-3. Definitions.

The following definitions shall be applicable in this chapter:

ASSEMBLY

A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in § 223-2 above.

PERSON

Any individual, partnership, corporation, firm, organization, company, association, society or group.

PUBLIC GATHERING

Shall be as defined in § 223-2 above.

§ 223-4. Permit required.

No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably

anticipated large gathering, whether on public or private property, unless a public gathering permit to hold the assembly has first been issued by the Town Board. A permit to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

§ 223-5. Application for permit.

A.

Applicant. Applications for a public gathering permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this chapter. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.

B.

Filing period. An application for a public gathering permit shall be filed with the Town Clerk not less than 45 days nor more than 120 days before the date on which it is proposed to conduct the event.

§ 223-6. Required application information.

The application for a public gathering permit shall contain and disclose all of the following information:

A.

The name, residence and mailing address of all persons required to sign the application by § **223-5A** above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding 10% or more of the stock of such corporations.

B.

The name and mailing address of the promoter and/or sponsor of the gathering.

C.

The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one inch equals 100 feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or watercourses, as well as the vertical contour interval two feet above the ordinary high-water level.

D.

Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of 250 or more persons.

E.

The nature or purpose of the assembly.

F.

The total number of days and/or hours during which the assembly is to last.

G.

The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the county if the assembly is to continue overnight.

H.

The maximum number of tickets to be sold, if any.

I.

The plans of the applicant to limit the maximum number of people permitted to assemble.

J.

The plans for fencing the location of the assembly and the gates contained in such fence.

K.

The plans for supplying potable water, including the source, amount available and location of outlets.

L.

The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.

M.

The plans for holding, collection and disposing of solid waste material.

N.

The plans to provide for medical facilities, including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.

O.

The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.

P.

The plans for parking vehicles, including size and location of lots, points of highway access and interior roads, including routes between highway access and parking lots.

Q.

The plans for camping facilities, if any, including facilities available and their location.

R.

The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.

S.

The plans for fire protection, including the number, type and location of all protective devices, including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.

T.

The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.

U.

The plans for food concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers.

V.

The application shall include the bond required in § **223-7** and the permit fee.

§ 223-7. Bond.

The Town Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Town Board, but not exceeding \$100,000, conditioned on complete compliance by the applicant and site owner with all provisions of this chapter, the terms and conditions of the public gathering permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Town Clerk prior to the issuance of a permit.

§ 223-8. Charge for increased costs.

Where the Town Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Town Board may require the permittee to make an additional payment into the general fund of the Town in an amount equal to the increased costs.

§ 223-9. Hearing; determination.

Prior to considering an application for a public gathering permit, the Town Board shall conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Town Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.

§ 223-10. Standards.

A public gathering permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Town Clerk copies of properly executed contracts establishing the ability to fully provide the services required under this chapter:

A.

For events scheduled for two successive days or more, at least one acre of land, exclusive of roads, parking lots and required yards, shall be provided for each 100 persons attending.

B.

Every site proposed for a public gathering permit shall be on generally well-drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.

C.

Due to the physical characteristics of the site, the Town Board may require that the applicant shall provide proof that he will furnish, at his own expense, a minimum of two days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four gates, at least one at or near four opposite points of the compass.

D.

The applicant shall provide proof that he has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over 1,000 persons will be in attendance.

E.

The applicant shall provide proof that he will furnish, at his own expense before the assembly commences:

(1)

If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five footcandles but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.

(2)

A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons.

(3)

Security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 500 people. If it is determined by the Town Chairperson that additional police protection shall be required, he may contact the County Sheriff's Department, and all costs for the additional protection required shall be deducted from the posted cash bond.

(4)

Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the county and Town, and sufficient emergency personnel to efficiently operate the required equipment.

F.

The applicant shall provide an adequate source of pure water with sufficient supply outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one gallon per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.

G.

The applicant shall provide separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet for every 100 females and at least one toilet for every 200 males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.

H.

The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight-fitting lids and personnel to perform the task.

I.

If the assembly is to continue overnight, camping facilities shall be provided in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Town and county sufficient to provide camping accommodations for the maximum number of people to be assembled.

§ 223-11. Reasons for denial.

Applicants may be denied for any of the following nonexclusive reasons:

A.

It is a use which would involve a violation of federal or state law or any Town or county ordinance.

B.

The granting of the permit would conflict with another permit already granted or for which application is already pending.

C.

The application does not contain the information or does not properly satisfy the conditions required by this chapter.

D.

The application is made less than the required days in advance of the proposed assembly.

E.

The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.

F.

The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.

G.

The assembly will reasonably create a substantial risk of injury to persons or damage to property.

H.

The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.

§ 223-12. Sale of fermented malt beverages.

When fermented malt beverages are sold at any event authorized by this chapter, a valid temporary fermented malt beverage license shall be obtained and applicable Town ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be presented to any law enforcement officer upon request.

§ 223-13. Recommendations of governmental agencies.

The Town Clerk may submit a copy of the application to the County Sheriff's Department and other governmental agencies for their recommendations.

§ 223-14. Permit revocation.

Any law enforcement officer, the Town Chairperson, or the Town Board may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Town and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the Town and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

§ 223-15. Fees.

Fees applicable under this chapter shall be in accordance with Chapter **72**, Fees.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 237. BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 15, Ch. 1, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Erosion control and stormwater management — See Ch. **276**.

Fires and fire prevention — See Ch. **295**.

Property maintenance — See Ch. **400**.

Streets and sidewalks — See Ch. **440**.

Subdivision of land — See Ch. **446**.

§ 237-1. Building Code established.

A.

Title. This chapter shall be known as the "Building Code of the Town of McMillan" and will be referred to in this chapter as "this code" or "this chapter."

B.

Purpose. This chapter provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired,

moved, converted to other uses or demolished and regulates the equipment, maintenance, use and occupancy of all such buildings and/or structures. Its purpose is to protect and foster the health, safety and well-being of persons occupying or using such buildings and the general public.

C.

Scope.

(1)

New buildings hereafter erected in, or any building hereafter moved within or into the Town, shall conform to all the requirements of this chapter except as they are herein specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons is a "new building" to the extent of such change. The provisions of this chapter supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of the County and amendments thereto to the date this chapter was adopted and in no way supersede or nullify such laws and said Zoning Code.

(2)

This code applies to all dwellings, commercial buildings/structures, swimming pools, garages, structures, buildings, and residential accessory buildings. Not included are children's play structures and agricultural buildings.

(3)

These regulations are adopted under the authority granted by § 101.65, Wis. Stats.

§ 237-2. Building permits and inspection.

A.

Permit required.

(1)

General permit requirement. No building of any kind shall be moved within and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or enlarged, altered, moved, demolish, razed or used within the Town, except as herein provided, until a permit therefor shall first have been obtained by the owner, or his/her authorized agent, from the permit issuer or his/her designee.

(a)

Prior to commencing any of the following work, the owner or his/her agent shall obtain a valid permit for:

[1]

New buildings.

[2]

Additions that increase the physical dimensions of a building including decks.

[3]

Alterations to the building structure, cost shall include market labor value, or alterations to the building's heating, electrical or plumbing systems. Permits are required for re-siding.

[4]

Any electrical wiring for new construction or remodeling.

[5]

Any HVAC for new construction or remodeling.

[6]

Any plumbing for new construction or remodeling.

(b)

Exempted are:

[1]

Re-roofing and finishing of interior surfaces, installation of cabinetry, and minor repair as deemed by the Building Inspector. However, unless structural calculations are provided, no more than two layers of roofing shall be installed on a roof.

[2]

Normal repairs performed in Subsection **A(1)(a)[4]** to [6].

(2)

Alterations and repairs. The following provisions shall apply to buildings altered or repaired:

(a)

Alterations. When any existing building or structure accommodates a legal occupancy and use but is of a substandard type of construction, then alterations which involve beams, girders, columns, bearing or other walls, room arrangement, heating and air-conditioning systems, light and ventilation, or changes in location of exit stairways or exits, or any or all of the above, may be made in order to bring such existing construction into conformity with the minimum requirements of this chapter applicable to such occupancy and use and given type of construction, when not in conflict with any other regulations.¹¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(b)

Repairs. Repairs for purposes of maintenance or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use shall be deemed minor repairs.

(c)

When alterations not permitted. When any existing building or structure which, for any reason whatsoever, does not conform to the regulations of this chapter has deteriorated from any cause whatsoever to an extent greater than 50% of the equalized value of the

building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.

(d)

Alterations and repairs required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength, failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this chapter are complied with.

(e)

Extent of deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Town Board.

B.

Application. Application for a building permit shall be made in writing upon a form furnished by the permit issuer or his/her designee and shall state the name and address of the owner of the land and also the owner of the building, if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put and such other information as the permit issuer may require.

C.

Minor repairs. The permit issuer may authorize minor repairs or maintenance work on any structure or to heating, ventilating or air-conditioning systems installed therein with a fair market value of less than \$500, as determined by the permit issuer, including market value of labor, which does not change the occupancy area, exterior aesthetic appearance, structural strength, fire protection, exits, light or ventilation of the building or structure without issuance of a building permit.

D.

Permit lapses. A building permit shall lapse and be void unless building operations are commenced within six months or if construction has not been completed within two years from the date of issuance thereof.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Revocation of permits.

(1)

The permit issuer or the Town Board may revoke any building permit or approval issued under the regulations of this chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:

(a)

Whenever the permit issuer shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning has been issued to him/her.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(b)

Whenever the continuance of any construction becomes dangerous to life or property.

(c)

Whenever there is any violation of any condition or provisions of the application for permit or of the permit.

(d)

Whenever, in the opinion of the Town Board, there is inadequate supervision provided on the job site.

(e)

Whenever any false statement or misrepresentation has been made in the application for permit, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.

(2)

A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the permit issuer.

(3)

After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this chapter. However, such work as the permit issuer may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.

F.

Report of violations. Town officers shall report at once to the permit issuer any building which is being carried on without a permit as required by this chapter.

G.

Display of permit. Building permits shall be displayed in a conspicuous place on the premises where the authorized building or work is in progress at all times during construction or work thereon.

§ 237-3. State Uniform Dwelling Code adopted.

A.

Adoption of code.

(1)

The State Uniform Dwelling Code, Chapters SPS 320 to 325 of the Wisconsin Administrative Code, and subsequent revisions, are adopted for municipal enforcement.

(2)

Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this chapter to secure uniform statewide regulation of one- and two-family dwellings in this Town. A copy of these Administrative Code provisions and any future amendments shall be kept on file in the Town Clerk's office.

B.

Definitions. The following definitions shall be applicable in this chapter:

ADDITION

New construction performed on a dwelling which increases the outside dimensions of the dwelling.

ALTERATION

A substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

DEPARTMENT

The Department of Safety and Professional Services, formerly the Department of Industry, Labor and Human Relations.

DWELLING

(1)

Any building, the initial construction of which is commenced on or after the effective date of this chapter, which contains one or two dwelling units; or

(2)

An existing structure, or that part of an existing structure, which is used or intended to be used as a one- or two-family dwelling.

MINOR REPAIR

Repair performed for maintenance or replacement purposes on any existing one- or two-family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed minor repair.

ONE- OR TWO-FAMILY DWELLING

A building structure which contains one or separate households intended to be used as a home, residence or sleeping place by an individual or by two or more individuals maintaining a common household to the exclusion of all others.

PERSON

An individual, partnership, firm or corporation.

UNIFORM DWELLING CODE

Those Administrative Code provisions and any future amendments, revisions or modifications thereto contained in the following chapters of the Wisconsin Administrative Code:

(1)

Chapter SPS 320, Administration and Enforcement.

(2)

Chapter SPS 321, Construction Standards.

(3)

Chapter SPS 322, Energy Conservation.

(4)

Chapter SPS 323, Heating, Ventilating and Air Conditioning.

(5)

Chapter SPS 324, Electrical Standards.

(6)

Chapter SPS 325, Plumbing.

C.

Method of enforcement.

(1)

Certified inspector not provided. Due to its population, the Town of McMillan elects not to provide a state-certified Building Inspector.

(2)

Inspection powers. The permit issuer or an authorized certified agent may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the permit issuer or his/her agent while in performance of his/her duties.

(3)

Records. In addition, the permit issuer shall keep a record of all applications for building permits in a book for such purposes and shall regularly number each permit in the order of its issue. Also, a record showing the number, description and size of all buildings erected indicating the kind of materials used and the cost of each building and aggregate cost of all one- and two-family dwellings shall be kept.

§ 237-4. Construction standards; codes adopted.

A.

Portions of State Building Code adopted. Chapters SPS 361 to 366 (Commercial Building Code) and Chapters SPS 375 to 379 (Buildings Constructed Prior to 1914) of the Wisconsin Administrative Code are hereby adopted and made a part of this chapter with respect to those classes of buildings to which they specifically apply. Any future amendments, revisions and modifications of said chapters incorporated herein are intended to be made a part of this code. A copy of said chapters and amendments thereto shall be kept on file in the office of the Town Clerk.

B.

State Plumbing Code adopted. The provisions and regulations of Ch. 145, Wis. Stats., and Chapters SPS 381 to 387 of the Wisconsin Administrative Code are hereby made a part of this chapter by reference and shall extend over and govern the installation of all plumbing installed, altered or repaired in the Town. Any further amendments, revisions and modifications of said Wisconsin Statutes and Administrative Code herein are intended to be made part of this chapter.

C.

State Electrical Code adopted. Subject to the exceptions set forth in this chapter, Chapter PSC 114, Wisconsin State Electrical Code Volume 1, and Chapter SPS 316, Electrical, of the Wisconsin Administrative Code are hereby adopted by reference and made a part of this section and shall apply to all buildings, except those covered in § 237-3 above.

§ 237-5. Electrical permits and inspections.

A.

Conformance with state code. All electrical work, including the placing of wires and other equipment, shall conform to the Wisconsin State Electrical Code.

B.

Permit. No electric wiring or other equipment shall be installed or altered without first securing a permit therefor from the Building Inspector, except that repairs or replacements of broken or defective sockets, switches or base receptacles may be made without a permit. The application for such permit shall be on a form furnished by the Town and shall state clearly the work planned, alterations to be made and equipment and materials to be used.

§ 237-6. Plumbing permits and inspections.

A.

Plumbing defined. For the purpose of this chapter, "plumbing" is defined as follows:

(1)

As defined in § 145.01(10), Wis. Stats.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

The construction, connection to or alteration of any drain, soil or waste pipe to carry domestic sewage, stormwater or industrial waste from a point three feet outside of the foundation walls of any building to the sewer lateral at the curb or other disposal terminal, including the private sewage disposal or treatment plant. This definition does not include minor repairs to faucets and the removal of stoppages in soil or waste pipes.

B.

Applications and permits.

(1)

Applications. No plumbing shall be installed in the Town without first receiving a permit. Each application shall be approved by the permit issuer before a permit to install plumbing may be issued. Only licensed master plumbers may receive such permits, except that a permit may be issued to a property owner to install plumbing in a single-family residence which is owned and occupied by such owner as his home.¹²

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Permit. A permit shall be applied for and received before excavating in any street, alley or other public way to repair, alter or install plumbing. No charge shall be made for such permit, but the applicant shall furnish a bond when street excavations are involved, pursuant to Chapter **440**, Article **IV**, of this Code.

§ 237-7. Unsafe buildings.

Whenever the Town Board find any building or part thereof within the Town to be, in its judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use and so that it would be unreasonable to repair the same, it shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the owner's option. Such order and proceedings shall be as provided in § 66.0413, Wis. Stats.

§ 237-8. Regulations for moving buildings.

A.

General requirements.

(1)

No person shall move any building or structure upon any of the public ways of the Town without first obtaining a permit therefor from the permit issuer and upon the payment of the required fee. Every such permit issued by the permit issuer for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.

(2)

A report shall be made by Town employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the Town, shall be paid to the Town Clerk prior to issuance of the moving permit.

(3)

Issuance of moving permit shall further be conditioned on approval of the moving route by the Town Board.

B.

Moving damaged buildings. No building shall be repaired, altered or moved within or into the Town that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) 50% or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the Town. Furthermore, if the equalized assessed value of the building is not within 20% of the surrounding buildings where the building is proposed to be moved to, no permit shall be granted unless the building is improved to be within the 20%. Such determination shall be made by the permit issuer, who may seek a recommendation from the Town Assessor.

C.

Continuous movement. The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

D.

Street repair. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report that fact to the permit issuer, who shall inspect the streets, highways and curbs and gutters over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of said permittee to do so within 10 days thereafter to the satisfaction of the Town Board, the Town shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of same.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Conformance with code. No permit shall be issued to move a building within or into the Town and to establish it upon a location within said Town until the permit issuer has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the permit issuer, and he/she shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that, when the same are completed, the building as such will so comply with said Building Code. In the event a building is to be moved from the Town to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

F.

Bond.

(1)

Before a permit is issued to move any building over any public way in the Town, the party applying therefor shall give a bond to the Town of McMillan in a sum to be fixed by the Town Chairperson and which shall not be less than \$5,000, said bond to be executed by a corporate surety or two personal sureties to be approved by the Town Board or designated agent conditioned upon, among other things, the indemnification to the Town for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment, together with the costs and expenses incurred by the Town in connection therewith arising out of the removal of the building for which the permit is issued.

(2)

Unless the permit issuer, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation such as to make intrusion upon the premises and the falling into such excavation of children under 12 years of age unlikely, the bond required by Subsection **F(1)** shall be further conditioned upon the permittee erecting adequate barriers and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the permit issuer and reasonably adopted or calculated to prevent the occurrences set forth herein.

G.

Insurance. The Town shall require, in addition to said the said bond above indicated, public liability insurance covering injury to one person in the sum of not less than \$500,000 and for one accident, aggregate not less than \$1,000,000, together with property damage insurance in a sum not less than \$500,000, or such other coverage as deemed necessary.

H.

Town Board approval.

(1)

No such permit shall be issued unless it has been found as a fact by the Town Board by at least a majority vote, after an examination of the application for the permit, which shall include exterior elevations of the building and accurate photographs of all sides and views of the same and in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plans of the building to be moved or moved and altered will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood or in the character of the applicable district established by the zoning ordinances of the County or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation of the property values of said neighborhood within said applicable district. In case the applicant proposed to alter the exterior of said building after moving the same, he/she shall submit, with his/her application papers, complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a cash bond to the Town Board, which shall not be less than \$5,000, to be executed in the manner provided in subsection hereof to the effect that he will, within a time to be set by the Town Board, complete the proposed exterior alterations to said building in the manner set forth in his/her plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the Town. No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.

(2)

Upon application being made to the Town Clerk, he/she shall request a Board to consider application for moving permits which he/she has found comply, in all respects, with all other ordinances of the Town. The Town Board may, if it desires, hear the applicant for the moving permit in question and/or the owner of the lot on which it is proposed to locate the building in question, together with any other persons, either residents or property owners, desiring to be heard, give such notice of hearing as they may deem sufficient. Such hearing may be adjourned for a reasonable length of time, and, within 48 hours after the close of the hearing, the Town Board shall, in writing, make or refuse to make the finding required by Subsection **H(1)** hereof and file it in the office of Town Clerk.

§ 237-9. Fees.

A.

Fees. Permit fees under this chapter shall be as established by resolution of the Town Board.

B.

No permit penalty. In the event work is commenced prior to obtaining a building permit, all fees shall be doubled.

§ 237-10. Severability.

If any section, clause, provision or portion of this chapter, or of the Wisconsin Administrative Code adopted by reference, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

§ 237-11. Violations and penalties.

A.

Any building or structure hereafter erected, enlarged, altered or repaired or any use hereafter established in violation of the provisions of this chapter shall be deemed an unlawful building, structure or use. The permit issuer shall promptly report all such violations to the Town Board and Town Attorney, who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use of buildings in violation of this chapter or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in § 1-4 of the Code. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the permit issuer or other Town officials constitute a defense. Compliance with the provisions of this chapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this chapter.

B.

Notification of noncompliance; time period for correction; additional penalties.

(1)

The Town of McMillan, due to population, elects not to provide a State of Wisconsin certified building inspector. However, if any state-provided inspection or other inspection reveals a noncompliance with this chapter or the Uniform Dwelling Code, the permit issuer shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted pursuant to SPS 320.21(3), Wis. Adm. Code.

(2)

If, after written notification, the violation is not corrected within 30 days, a stop-work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop-work order shall not be removed except by written notice of the permit issuer after satisfactory evidence has been supplied that the cited violation has been corrected.

(3)

Each day each violation continues after the thirty-day written notice period has run shall constitute a separate offense. Nothing in this chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter or the Uniform Dwelling Code.

(4)

If any construction or work governed by the provisions of this chapter or the Uniform Dwelling Code is commenced prior to the issuance of a permit, double fees shall be charged.

C.

Any person feeling aggrieved by an order or a determination of the permit issuer may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply.

D.

Except as may otherwise be provided by statute or ordinance, no officer, agent or employee of the Town of McMillan charged with the enforcement of this chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this chapter. Any suit brought against any officer, agent or employee of the Town as a result of any act required or permitted in the discharge of his/her duties under this chapter shall be defended by the legal representative of the Town until the final determination of the proceedings therein.

Chapter 255. COMPREHENSIVE PLAN

[HISTORY: Adopted by the Town Board of the Town of McMillan 10-10-2005.
Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 446.

§ 255-1. Statutory authority; procedure.

Pursuant to § 62.23(2) and (3), Wis. Stats., the Town of McMillan is authorized to prepare and adopt a comprehensive plan as defined in § 66.1001(1)(a) and (2), Wis. Stats.

§ 255-2. Public participation.

The Town Board of the Town of McMillan, Marathon County, Wisconsin, has adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by § 66.1001(4)(a), Wis. Stats.

§ 255-3. Recommendation of Plan Commission.

The Plan Commission of the Town of McMillan, by a majority vote of the entire Commission recorded in its official minutes, has adopted a resolution recommending to Town Board the adoption of the document titled "Comprehensive Plan of the Town of McMillan," containing all of the elements specified in § 66.1001(2), Wis. Stats.

§ 255-4. Public hearing.

The Town has held at least one public hearing on this chapter, in compliance with the requirements of § 66.1001(4)(d), Wis. Stats.

§ 255-5. Adoption of Comprehensive Plan.

The Town Board of the Town of McMillan, Marathon County, Wisconsin, does, by enactment of this chapter, formally adopt the document titled "Comprehensive Plan of the Town of McMillan," pursuant to § 66.1001(4)(c), Wis. Stats.¹¹

[1]:

Editor's Note: The Comprehensive Plan is on file at the office of the Town Clerk.

Chapter 261. CULVERTS AND DRIVEWAYS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 6, Ch. 4, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Erosion control and stormwater management — See Ch. 276.

Property maintenance — See Ch. 400.

Streets and sidewalks — See Ch. 440.

§ 261-1. Culvert requirements; authorization.

No person shall construct any driveway or private road in a public right-of-way of the Town of McMillan without installing a culvert in full compliance with this chapter. Included within the scope of this requirement are commercial driveways. Any property owner desiring to place a culvert alongside any Town road must make application to the Town Board. Members of the Town Board, or their designee, will inspect conditions and determine size, type and proper placement of culvert.

§ 261-2. Driveway location, design and construction.

The location, design and construction of driveways shall be in accordance with the following:

A.

General design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least 10 feet apart except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible so as not to interfere with utilities in place.

B.

Island area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection D.

C.

Driveway approach to Town road.

(1)

The apron from the center of the culvert to the road pavement must have a minimum of three feet to 10 feet taper on each side of the apron. Example: If the distance from the center of the culvert to the pavement is 10 feet, then the apron must be three feet wider on each side than the width at the culvert.

(2)

The sides of the apron, at least to the culvert, should be beveled down to grade so as to have no abrupt surface that could damage a snowplow or create a hazard to any vehicle that should travel off the pavement.

(3)

No barricade, fence or guard that extends higher than the roadbed may be constructed in the area from the pavement to the center of the culvert.

D.

Restricted areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:

(1)

The filling or draining shall be to grades approved by the Town Engineer and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.

(2)

Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than 300 feet and/or where a bend or curve in the pipe is required.

(3)

Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Town Board.

E.

Relocation of utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board necessary before any utility may be relocated and the driveway installed.

F.

Variations. Any of the above requirements may be varied by the Town Board, or its designee, in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

§ 261-3. Special requirements for commercial and industrial driveways.

The following regulations are applicable to driveways serving commercial or industrial establishments:

A.

Width of drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than 30 feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board, or its designee, in its discretion may permit a driveway of additional width.

B.

Angular placement of driveway. The angle between the center line of the driveway and the curbline or road edge shall not be less than 70°.

§ 261-4. Special requirements for residential driveways.

The following regulations are applicable to driveways serving residential property:

A.

Width. A residential single driveway culvert shall be a minimum of 24 feet in length. Placement of a culvert of less than 24 feet or greater than 24 feet shall require prior permission of the Town Board or its designee.

B.

Angular placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curbline or pavement edge.

§ 261-5. Prohibited driveways and/or filling.

A.

No person, firm or corporation shall place, construct, or locate, or cause to be placed, constructed or located, any obstruction or structure within the limits of any public road, highway or street in the Town of McMillan except as permitted by this section. As used herein, the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in nonconformance with this chapter.

B.

No driveway shall be closer than 25 feet to the extended street line at an intersection. At street intersections, a driveway shall not provide direct ingress or egress to or from the

street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.

C.

The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

D.

Drainage from driveways shall run into adjacent ditches and not onto the road pavement.

E.

Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town.

F.

The placement of lawn sprinkler pipes in a road right-of-way is prohibited.

§ 261-6. Culvert construction standards.

A.

Size. Culverts shall be installed prior to construction work being commenced on the property served. Culvert size shall be determined by the Town Board. All culverts shall be constructed of galvanized steel or reinforced concrete and shall be of new manufacture, unless specifically excepted by the Town Engineer.

B.

Gauge.

(1)

The minimum wall thickness for the galvanized steel or plastic pipe culverts shall be in accordance with the following:

Pipe Diameter (inches)	Gauge
15 to 24	16
30 to 36	14
42 to 54	12
60 to 72	10
78 to 84	8

(2)

The class of reinforced concrete pipe shall be in accordance with the following:

Height of Cover (feet)	Class of Pipe
0 to 2	IV
2 to 3	III

Height of Cover (feet)

3 to 6

Class of Pipe

II

C.

Drainage. The culverts shall be placed in the ditch line at elevations that will assure proper drainage.

D.

Backfill material. Material used for backfill shall be of a quality acceptable to the Town Engineer and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six inches.

E.

Erosion control. Erosion control measures shall be implemented as necessary to control erosion or as directed by the Town Engineer.

F.

Cost. The property owner shall install the culvert and be responsible for the cost thereof.

G.

Appeal. Persons may request a variance from the culvert requirements of this section by filing a written appeals request with the Town Clerk, who shall place the matter as an agenda item for the Town Board's next meeting. The Town Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Town Engineer may be asked to render an opinion on the request.

§ 261-7. Enforcement.

All costs incurred by the Town relating to the enforcement of this chapter or in making the determinations or inspections necessary hereunder shall be paid by the property owner, including but not limited to Town administrative costs and engineers' and attorneys' fees. If a property owner refuses to comply with this chapter, the Town may install the culverts and charge back the cost or additional cost thereof as a special charge pursuant to § 66.0627, Wis. Stats.

**Chapter 276. EROSION CONTROL AND STORMWATER
MANAGEMENT**

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 15, Ch. 2, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Culverts and driveways — See Ch. 261.

Building construction — See Ch. 237.

Subdivision of land — See Ch. 446.

§ 276-1. Purpose and applicability.

A.

Authority. This chapter is adopted under the authority granted to the Town of McMillan by, but not limited to, the following statutory provisions: §§ 60.10(2)(c) and (i) and (3)(a), 61.34, 61.354, 92.02 and 823.01, Wis. Stats., as well as the police powers of the Town to preserve and protect the peace, health and safety of the residents of the Town of McMillan.

B.

Findings and purpose.

(1)

Findings. The Town Board finds runoff from construction and land disturbance activity carries a significant amount of sediment and other pollutants to the waters of the state and this Town; that it is necessary to protect Town property and structures from damage caused by increased surface water runoff due to commercial, industrial and residential development of land in the Town; that it is necessary to protect the groundwater quality and to preserve existing private water sources; and that it is necessary to abate public nuisances for the health and safety of Town residents.

(2)

Purpose. It is the purpose of this chapter to preserve the natural resources; to protect the quality of waters of the state and the Town; and to protect and promote the health, safety and welfare of the people.

C.

Applicability. This chapter applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the Town of McMillan, Marathon County, Wisconsin. All county, state or federal conducted construction is exempt from this chapter.

(1)

The intent of this section is not to restrict agricultural land usage.

(2)

When any change in water flow is impacted by any construction, agricultural land use, or any other land disturbance, the amount of water and the direction of flow shall not be directed onto another's property unless written permission is obtained. Any increase in flow via a creek or other natural waterway that meets all DNR restrictions is not herein regulated.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

Any activity that could cause a change in the water flow onto another's property will require a permit. Any land disturbance causing an unauthorized increase of water flow onto another's property must be corrected within 30 days of receipt of a written order to correct the problem. Continued violation can result in a fine of up to \$100 per day until the problem is corrected.

§ 276-2. Rules and definitions.

A.

Rules. In the construction of this chapter, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

(1)

Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular.

(2)

The word "shall" is mandatory and not discretionary.

(3)

The word "may" is permissive.

(4)

The masculine gender includes the feminine and neuter.

(5)

References to the Wisconsin Statutes apply to said statutes in existence on the date of the adoption of this chapter and as the same are amended from time to time subsequent to the adoption of this chapter.

B.

Definitions. As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL LAND USE

Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

COMMERCIAL LAND USE

Use of land for the retail or wholesale sale of goods and services.

CONSTRUCTION SITE CONTROL MEASURE

A control measure used to meet the requirements of this chapter.

CONTROL MEASURE

A practice or combination of practices to control erosion and attendant pollution.

CONTROL PLAN

A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter submitted by the applicant for review and approval by the Town Board.

EROSION

The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

LAND DEVELOPING ACTIVITY

The construction of buildings, roads, parking lots, paved storage areas and similar facilities.

LAND DISTURBING ACTIVITY

Any significant man-made change of the land surface, including extensive removal of vegetation cover, excavating, filling, grading, and mining (including but not limited to the extraction, processing, washing, crushing or quarrying of soil, gravel, clay and other mineral resources) but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, harvesting of trees and single-family residential construction and residential landscaping.

LANDOWNER

Any person, partnership or corporation holding title to or having an interest in land whether by lease, land contract or otherwise.

LAND USER

Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

RUNOFF

The rainfall, snowmelt, or irrigation water flowing over the ground surface.

SITE

The entire area included in the legal description of the land on which the land disturbing or land developing activity is proposed in the permit application.

§ 276-3. Permit application, control plan and permit issuance.

A.

Permit. No landowner or land user may commence a land disturbance or land development activity subject to this chapter without receiving prior approval of a control plan for the site and a permit from the Town Board. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this chapter shall submit an application for a permit and a control plan and pay an application fee to the Town Board. The applicant shall also be financially responsible for the costs of engineers, surveyors, hydrologists, legal counsel or other consultants that the Town Board may retain to review the application or permit renewals. The submission of an application shall be deemed to be consent to the Town Board or its agents to enter the site. A renewal application shall be accompanied by a fee.

B.

Content of control plan. The control plan for land disturbing activities shall include the following information:

(1)

Site boundaries and adjacent land which accurately identify the site location;

(2)

Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site;

(3)

One-hundred-year floodplains, flood fringes and floodways;

(4)

Location of the predominant soil types;

(5)

Vegetative cover;

(6)

Location and dimensions of stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site;

(7)

Locations and dimensions of utilities, structures, roads, highways and paving;

(8)

Site topography at a contour interval not to exceed five feet;

(9)

A complete description of the proposed land disturbing activities, which shall include but not be limited to the following:

(a)

Locations and dimensions of all proposed land disturbing activities;

(b)

Locations and dimensions of all temporary soil or dirt stockpiles;

(c)

Locations and dimensions of all construction site management control measures necessary to meet the requirements of this chapter;

(d)

Schedule of anticipating starting and completion dates of each land disturbing or land developing activity, including the installation of construction site control measures needed to meet the requirements of this chapter.

(10)

A surface water drainage plan that includes the following information:

(a)

Identification of soil types for the top 36 inches of soil;

(b)

Infiltration characteristics of the soil;

(c)

The extent of available detention areas;

(d)

Information relating to rain intensities and rain volumes or corresponding values specific to the Town for the storm durations of 1/2, one, two, three, six, 12, and 24 hours that occur approximately once per year;

(e)

Identity of bridges, regional drainage patterns and existing watersheds which drain through or across the property, water boundaries, pipes, culverts, catch basins, waterways, ditches, detention and retention basins and storm sewers;

(f)

Calculations showing predevelopment and postdevelopment surface water runoff;

(g)

Information describing how the land disturbing or construction site activity will affect downstream areas and adjacent property owners;

(h)

A description of the methods utilized to protect downstream areas and adjacent property owners from damage caused by increased surface water runoff;

(i)

Detailed information describing the short- and long-term effects, if any, on groundwater quality;

(j)

A detailed land restoration plan; and

(k)

For all plats and certified survey maps encompassing one lot or more, and for all developments proposed on previously approved plats or certified survey maps in excess of one acre, topographical survey data showing existing elevations and postdevelopment elevations.

(11)

Such other information deemed necessary by the Town Board in order to fulfill the purposes of this chapter.

C.

Review of control plan. Within 60 days of receipt of the application, control plan and fee, the Town Board shall review the application and control plan to determine if the requirements of this chapter are met. If the conditions are not met, the Town Board shall inform the applicant in writing and may either require needed information or disapprove the plan. If the plan is disapproved, the Town Board shall inform the applicant in writing of the reasons for the disapproval. The Town Board reserves the right to approve or disapprove any application. Renewal of permits is left to the discretion of the Town

Board. An applicant who has been issued a permit shall have no property interest in the renewal of said permit.

D.

Permits.

(1)

Validity. Permits shall be valid for a period of 12 months or the length of the building permit or other construction authorizations, whichever is shorter, from the date of issuance. The Town Board may extend the period for one or more times for up to an additional 180 days. The Town Board may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this chapter.

(2)

Surety bond. As a condition of approval and issuance of the permit, the Town Board may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.

(3)

Permit conditions. All permits shall require the permittee to:

(a)

Notify the Town Clerk within 48 hours of commencing of any land disturbing activity.

(b)

Notify the Town Clerk of completion of any control measures within 14 days after their installation.

(c)

Obtain permission in writing from the Town Board prior to modifying the control plan.

(d)

Install all control measures as identified in the approved control plan.

(e)

Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan.

(f)

Repair any erosion damage to adjoining surfaces and drainageways resulting from land developing or land disturbing activities.

(g)

Inspect the construction control measures after each rain of 0.5 inch or more and at least once each week and make needed repairs.

(h)

Allow the Town Board, Town Clerk or Building Inspector to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.

(i)

Retain a copy of the control plan on the site.

§ 276-4. Erosion and other pollutant control requirements.

A.

Site erosion control. The following criteria apply to land disturbing activities:

(1)

Channelized runoff from adjacent areas passing through the site shall be diverted around the disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5 foot per second across the disturbed area for the set of one-year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. Natural Resources Conservation Service guidelines for allowable velocities in different types of channels shall be followed.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

All activities on the site shall be conducted in a logical and phased sequence to minimize the area of bare soil exposed at any one time.

(3)

Runoff from the entire disturbed area on the site shall be controlled by meeting one of the following:

(a)

All disturbed ground left inactive for 30 or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering, or other equivalent control measures.

(b)

For sites more than five acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a service area of at least 1% of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of one-year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(c)

For sites with less than five acres disturbed at one time, filter fences, straw bales or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

(4)

Any soil or dirt storage piles containing more than 10 cubic yards of material shall not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. If remaining for more than 30 days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than 30 days shall be controlled by placing straw bails or filtered fence barriers around the pile.

B.

Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

C.

Site dewatering. Water pumped from the site, if any, shall be treated by temporary sedimentation basins, grit chambers, sand filters or other appropriate controls designed and used to remove particles of 100 microns or greater from the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the Town Board. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

D.

Waste and material disposal. All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.

E.

Miscellaneous standards. All land disturbing activity shall be conducted so as to prevent erosion and sedimentation and to least disturb the natural flora, fauna, water regimen and topography. All areas in which the surface of the land is disturbed shall be promptly seeded and mulched, sodded or otherwise suitably protected against erosion at a time and in a manner satisfactory to the Town Board. The Town Board reserves the right to consult with the County Soil and Water Conservation District, the Department of Natural Resources and/or the Corps of Engineers for review and comment. Guidelines, standards and specifications contained in publications from these agencies may be incorporated into the permit conditions. The land disturbing activity shall be conducted so as to avoid any adverse effect to lands adjacent to the site.

§ 276-5. Inspection.

Submittal of an application for a permit under this chapter shall be deemed consent by the landowner or land user for the Town Board and its agents to enter the land to insure compliance with the control plan. If the land disturbing or land development activities are being carried out without a permit, the Town Board or its agents shall enter the land pursuant to the provisions of §§ 66.0119, Wis. Stats.

§ 276-6. Violations and penalties; enforcement.

A.

Penalties. Any person violating any provision of this chapter shall, upon conviction thereof, forfeit not less than \$250 nor more than \$1,000 and the costs of prosecution, including attorney's fees, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment of such forfeiture and costs of prosecution, but not exceeding 30 days for each violation. Each day of violation shall constitute a separate offense. Compliance with the provisions of this chapter may also be enforced by injunction.

B.

Stop-work order. The Town Board may post a stop-work order if:

(1)

Any land disturbing or land developing activity regulated under this chapter is being undertaken without a permit;

(2)

The control plan is not being implemented in a good faith manner; or

(3)

The conditions of the permit are not being met.

C.

Revocation. If the permittee does not cease the activity or comply with the control plan or permit conditions within 10 days of the stop-work order, the Town Board may revoke the permit without further notice or hearing. If a landowner or land user where no permit has been issued does not cease activity regulated by this chapter within 10 days, the Town Board may request the Town Attorney to obtain a cease-and-desist order from a court.

D.

Repossession of permit. Whenever any permit under this chapter shall be revoked or suspended, the permittee shall surrender the permit to the Town Clerk. The Town Clerk or constable shall have the right to take physical possession of the suspended or revoked permit wherever it may be found and file it in the Clerk's office.

Chapter 282. EXPLOSIVES AND BLASTING

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 7, Ch. 5, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fires and fire prevention — See Ch. **295**.
Fireworks — See Ch. **299**.

§ 282-1. Authority and purpose.

A.

Authority. This chapter is adopted pursuant to the police powers granted to the Town under Ch. 60, Wis. Stats.

B.

Purpose. The purpose of this chapter is to:

(1)

Protect the health, welfare and safety of Town residents.

(2)

Protect public and private property located within the Town.

(3)

Regulate the use of explosive materials and establish uniform limits on the permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or nuisance to persons or property.

§ 282-2. Definitions.

The following definitions shall apply in this chapter. Terms not herein defined shall be understood to have their usual and ordinary dictionary meaning.

AIRBLAST

An airborne shock wave resulting from the detonation of explosives.

APPROVES

Approval granted by the Town of McMillan.

BLASTER

Any individual holding a valid blaster's license issued by the Wisconsin Department of Safety and Professional Services, formerly the Wisconsin Department of Commerce.^(u)

BLASTING

Any method of loosening, moving or shattering masses of solid matter by use of an explosive.^(u)

BLASTING OPERATION

Any operation, enterprise or activity involving the use of blasting.

BLASTING RESULTANTS

The physical manifestations of forces released by blasting, including, but not limited to, projectile matter, vibration and concussion, which might cause injury, damage or unreasonable nuisance to persons or property located outside the controlled blasting site area.

COMMUNITY

A built-up inhabited area.

DEPARTMENT

The Wisconsin Department of Safety and Professional Services, formerly the Department of Commerce.⁽³⁾

DETONATOR

Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps.

ELECTRIC BLASTING CAP

A blasting cap designed for, and capable of, initiation by means of an electric current.

EXPLOSION

The substantially instantaneous release of both gas and heat.

EXPLOSIVE

Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion unless the compound, mixture or device is otherwise classified by the Department by rule.

EXPLOSIVE MATERIALS

Explosives, blasting agents and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels, blasting agents, black power, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.

FLYROCK

Rock that is propelled through the air from a blast.

GROUND VIBRATION

A shaking of the ground caused by the elastic wave emanating from a blast.

HIGHWAY

Any public street, public alley or public road.

INHABITED BUILDING

A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

NUISANCE

An injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience, or damage.

PARTICLE VELOCITY

Any measure of ground vibration describing the velocity at which a particle of ground vibrates when excited by a seismic wave.

PERMITTED EXPLOSIVES USE AREA

The area that surrounds a blasting site and:

A.

Is owned by the operator; or

B.

With respect to which, because of property ownership, employment, relationship or agreement with the property owner, the operator can take reasonably adequate measures to exclude or to assure the safety of persons and property.

PERSON

Any individual, corporation, company, association, firm, partnership, society or joint stock company.

POWDER FACTOR

Any ratio between the amount of powder loaded and the amount of rock broken.

PRIMER

A capped fuse, electric detonator or any other detonating device inserted in or attached to a cartridge of explosive.

STEMMING

The inert material, such as drill cutting, used in the collar portion or elsewhere of a blast hole to confine the gaseous products of detonation.

TOWN

The Town of McMillan, Marathon County, Wisconsin.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 282-3. Regulation of explosive materials and blasting.

A.

General.

(1)

General permit(s) required. No person shall handle or use explosive materials in the Town of McMillan unless he possesses a valid State of Wisconsin blaster's license with the proper classification or is supervised by a holder of a valid State of Wisconsin blaster's license with the proper classification.

(2)

Firearms exception. For purposes of this chapter, blasting does not include the discharge of firearms for hunting.

B.

Town permit requirements. No person shall handle, use or cause explosives to be detonated within the Town of McMillan without an explosives use permit issued by the Town of McMillan, as hereafter set forth, to such person, his supervisor or employer:

(1)

Application. Applications for an explosives use permit shall be in writing upon forms provided by the Town Clerk. Applications shall be accompanied by a permit fee in accordance with Chapter 72, Fees. Permits shall be issued on an annual basis commencing January 1 and ending on December 31. Applications may be made by and permits issued to the blasting business, provided that the person doing the blasting or responsible for such blasting shall hold a valid Wisconsin blaster's license with proper classification. The application will identify the licensed blasters operating under the permit and the blasting locations within the Town of McMillan.

(2)

Financial assurance. Each application for an explosives use permit as herein stated, or a renewal thereof, shall be accompanied by a certificate of insurance evidencing comprehensive general public liability insurance against claims for bodily injury, death, or property damage arising out of the blasting operation, such insurance to afford protection to the Town of McMillan and its residents of not less than \$1,000,000 with respect to bodily injury or death to any one person, not less than \$3,000,000 with respect to any one accident, and not less than \$100,000 with respect to property damage. The certificate of insurance shall name the Town of McMillan and its residents as additional insureds under the relevant policy. Any insurance which the blaster is obligated to carry under the terms of this chapter may be carried under so-called "blanket" policies covering other properties or liabilities of the blaster, provided that such blanket policies otherwise comply with the provisions of this subsection. Each insurance policy shall provide that it shall not be canceled by the insurance company, except after not less than 90 days' notice to the Town, in writing, by registered or certified mail. Not less than 30 days prior to the expiration of the ninety-day notice of cancellation, the blaster must deliver to the Town a replacement insurance policy, in absence of which all blasting shall cease. The liability insurance must be issued by a company licensed by the State of Wisconsin to issue the policy. The Town Board reserves the right to increase the amount of the insurance policy depending on the circumstances of the blasting activity.

(3)

Explosives use plan. Each application for an explosives use permit or a renewal thereof shall include a written description of the total area within which explosives are proposed to be used and blasting procedures to be employed, including types of explosives, initiating systems, and an aerial photograph or drawing acceptable to the Town Board with a scale of no less than one inch equals 100 feet and having an overlaying grid of 50 feet by 50 feet which accurately includes all areas and inhabited buildings within 500 feet of all proposed blasting areas.

(4)

Hours of operation. Blasting shall only be conducted between 9:00 a.m. and 4:00 p.m. on Monday through Friday; provided, however, that in the event an emergency has delayed a blast beyond 4:00 p.m., a loaded hole may be blown within a reasonable time thereafter. Blasting shall not be conducted at other times or on Sundays or legal

holidays without written permission from the Town Board or its designee, which shall only be granted upon a showing of extreme need.

(5)

Blasting log. An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of said log shall be supplied to the Town Clerk within seven working days of the initiation of the blast. The Town may require that the permittee furnish to the Town an analysis of any particular blasting log to be prepared by the permittee. In the event the permittee cannot or will not prepare a reliable analysis, the Town may obtain such analysis from an independent expert. The permittee shall be liable for the reasonable cost of such analysis if it is determined after an opportunity to be heard that this requirement was violated by the permittee. Each blasting log shall include, but not be restricted to, the following information:

(a)

Name and license number of blaster in charge of blast;

(b)

Blast location with grid coordinate references to the supplied aerial photograph or drawing of the explosives use area;

(c)

Date and time of blast;

(d)

Weather conditions at time of blast;

(e)

Diagram and cross-section of blast hole layout;

(f)

Number of blast holes;

(g)

Blast hole depth and diameter;

(h)

Spacing and burden of blast holes;

(i)

Maximum holes per delay;

(j)

Maximum pounds of explosives per delay;

(k)

Depth and type of stemming used;

(l)

Total pounds of explosives used, including primers and initiating cord;

(m)

Distance to nearest inhabited building not owned by permittee;

(n)

Type of initiation system used;

(o)

Seismographic and airblast information, which shall include:

[1]

Type of instrument and last calibration date;

[2]

Exact location of instrument and date, time and distance from the blast;

[3]

Name and company affiliation of person taking reading;

[4]

Name of the person and firm analyzing the seismographic and airblast data when required;

[5]

Vibrations and airblast levels recorded; and

[6]

Copy of the seismograph printout.

§ 282-4. Temporary permits.

A.

Temporary permit requirements. The Town Clerk or Building Inspector, upon receipt of a properly completed temporary permit application form, may issue a temporary permit to allow for special construction or demolition activities requiring the use of explosives. Temporary permits shall be issued for a duration of 14 consecutive working days. The Town Board, in its discretion, may grant one fourteen-day extension. Only one temporary permit (and one renewal) can be issued for any given site within the year of permit issuance. Applicants for temporary permits are required to provide financial assurance as specified in Subsection **B** and provide notice to all neighbors within 500 feet of the special construction or demolition activity.

B.

Temporary permit categories. Permits shall be in the following categories:

(1)

Road, sewer, heavy construction. The fee shall not exceed \$500 determined by the Town Board based on the explosive use plan submitted by contractor or blaster.

(2)

Construction authorized by Town Board. Construction authorized by the Town Board for Town use is exempt from the fee. Applicants for these permits are required to file

financial assurances as specified in § **282-3B** and provide notice to all neighbors within 500 feet.

(3)

Construction. This category includes home building, septic systems, swimming pools, etc. The fee is included in the building permit. If blasting becomes necessary after the issuance of a building permit, a fee in accordance with the Chapter **72**, Fees, will be assessed for the blasting permit. No bond is required. However, proof of insurance and notice to all neighbors within 500 feet is required.

(4)

Agricultural. This category includes stump removal, silo demolition, manure pits, etc. The fee shall be a fee in accordance with Chapter **72** Fees, for the permit. No bond is required. However, proof of insurance and notice to all neighbors within 500 feet is required.

§ 282-5. Regulation of blasting resultants.

A.

Purpose of section. It is the purpose of this section to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting within the Town does not cause injury, damage or a nuisance to persons or property outside and beyond the permitted explosives use area.

B.

Instrumentation. All blast-monitoring instruments used to produce data to support compliance with this subsection shall meet the following minimum specifications:

(1)

Seismic frequency range: two to 200 Hz (± 3 Hz).

(2)

Acoustic frequency range: two to 200 Hz (\pm dB).

(3)

Velocity range: 0.02 to four inches per second.

(4)

Sound range: 100 to 140 dB linear.

(5)

Transducers: three mutually perpendicular axes.

(6)

Recording: provide time-history of waveform.

(7)

Printout: direct printout showing time, date, peak air pressure, peak particle velocity and frequency in three directions and a printed waveform graph of the event depicting measured air blast and particle velocity in the three directions.

(8)

Calibration: at least once every 12 months according to manufacturer's recommendations.

C.

Control of adverse effects generally. The permittee shall take necessary steps prescribed by the Town to control adverse effects from his activity.

D.

General requirements. Blasting shall be conducted so as to prevent injury and unreasonable annoyance to persons and damage to public or private property outside the permitted explosives use area.

E.

Airblast.

(1)

Limits. Airblast shall not exceed the maximum limits listed in Table A-1 at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permitted explosives use area.

Notwithstanding this general requirement, an annual permit holder subject to this limitation may exceed the limitation on up to 5% of the blasts it initiates during the period from January 1 to December 31 without violating this chapter, provided that the airblast produced by such blasts does not exceed the limitations on airblast imposed by the Wisconsin Department of Safety and Professional Services, formerly the Department of Commerce, in § SPS 307.44(3), Wis. Adm. Code, as amended from time to time.^[1]

Table A-1 Airblast Limits

Lower Frequency Limit of Measuring System (Hz) Maximum Level (db)

2 or lower — flat response	123 peak
6 or lower — flat response	129 peak

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

(2)

Monitoring.

(a)

The permittee shall monitor all blasts at the closest location to the blast of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permittee explosives use area, provided, however, that the permittee may monitor, at another location, approximately the same distance from the blast site, if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location. The Town Board or its designee may, at its discretion, require the relocation of monitoring equipment to a more suitable site and/or may conduct independent air-blast monitoring to spot-check data supplied by the permittee. If independent monitoring by the Town after hearing discloses that this chapter was violated by the permittee, then in that event, the permittee shall pay the

reasonable costs incurred by the Town for the independent monitoring. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Town for such expenses within 30 days after receipt of such notice.

(b)

The measuring equipment used shall have an upper end flat frequency response of at least 200 Hz.

(c)

All measuring equipment during monitoring shall be spiked to the ground or sandbagged.

F.

Flyrock. Flyrock produced as a result of explosives use shall be totally contained within the permitted explosives use area.

G.

Ground vibration.

(1)

General.

(a)

The maximum ground vibration at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside or beyond the permitted explosives use area shall have a maximum peak particle velocity limit as provided by the Department, the scaled-distance equation provided by the Department, or the blasting level chart provided by the Department, whichever is applicable hereunder.

(b)

All structures in the vicinity of the permitted explosives use area, not listed in Subsection **G(1)(a)**, such as water towers, pipelines and other utilities, tunnels, dams, impoundments and underground mines shall be protected from damage by establishment by the permit holder of a maximum allowable limit on the ground vibration. The permit holder shall establish the limit after consulting with the owner of the structure.

(2)

Seismic monitoring.

(a)

The Town Board, in its discretion, may conduct independent seismic blast monitoring to spot-check data supplied by the permit holder. If the independent monitoring was done after good cause was shown therefor and after the permittee was given notice and an opportunity to be heard on the matter, the permittee shall be liable to the Town for all expenses incurred by the Town as a result of such independent monitoring. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Town for such expenses within 30 days after receipt of such notice.

(b)

The Town Board, upon good cause shown and after giving the permittee notice and an opportunity to be heard, may request analysis of records and data for any or all blasts which occurred within the permitted explosives use area.

(3)

Pre-blasting notification.

(a)

Each explosives use permit application and all reapplications shall include the names and addresses of all residents or owners of dwellings or other structures located within an area affected by the permitted explosives use. The affected area shall be determined based on the maximum pounds of explosive per eight MS delay from the previous three years' high. This calculation's square root times 100 shall determine the affected area in feet. This calculation shall be the maximum distance from the boundary of the quarry where a pre-blast survey may be requested. One thousand feet shall be the minimum distance for which a pre-blast survey may be requested, regardless of the above calculation. Residents outside of these boundaries may petition the Town Board for a pre-blast survey, with the survey to be at the quarry operator's expense. Residents denied this pre-blast survey may, at their own expense, secure a survey by a company acceptable to the quarry operator. The quarry operator may not unreasonably reject the company proposed to perform the survey. The surveys performed in this subsection will serve as the basis for damage claims against the quarry operator. The blasting logs used to determine the previous three years' high, as referenced in this subsection, are available for inspection from the Town Clerk. [See § **282-3B(5)**].

(b)

At the time of permit application, the applicant shall have notified, in writing, all residents or owners of dwellings or other structures located within the affected area, previously defined in Subsection **G(3)(a)** immediately above, who may request a pre-blast survey. All pre-blast surveys shall include a water quality test for existing wells. The applicant shall cause a pre-blast survey to be conducted as to such dwellings or structures, and extensive water quality testing for existing wells; provided, however, that the applicant shall not be required to conduct a pre-blast survey more than once every six years and a well water quality test more than once every four years. The applicant or permittee is responsible for the costs of all requested pre-blast surveys and water quality tests.

(c)

The survey shall include a written report signed by the person who conducted the survey. Copies of the survey report shall be promptly provided to the Town Clerk, the owner or resident, and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Town any objections to the survey report, setting forth in detail such objections.

(d)

The owner of a dwelling or structure that is within the affected area defined in Subsection **G(3)(a)** above who subsequent to the pre-blast survey has substantially modified or improved the dwelling or structure by 50% or more of the fair market value may request a new pre-blast survey. If it is found that a pre-blast survey is appropriate,

the permittee may conduct such surveys within a reasonable period of time, but not exceeding twice a year for all such requests by all owners. These updated surveys shall be requested in writing submitted to the Town Board, which shall promptly notify the permittee of the request.

(e)

All expenses incurred as a result of such independent surveys shall be the responsibility of the applicant/permittee. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the applicant/permittee, who shall reimburse the Town for such expenses within 30 days after receipt of such notice.

§ 282-6. Applicability.

A.

Effective date. All use of explosives and blasting activity conducted in the Town on or after the date of original adoption of this chapter shall be subject to the provisions of this chapter. Existing operations of whatever nature including, without limitation, nonmetallic mining operations, shall comply with the terms of this chapter.

B.

Other ordinances. Where the provisions of this chapter conflict with any provisions of any other Town ordinance, the provisions of this chapter, if more restrictive than those of the other ordinances, shall control and shall supersede the provisions of the other ordinances.

C.

State and federal laws. Where the provisions of this chapter conflict with the provisions of any applicable state or federal law or regulation, the provisions of the most restrictive ordinance, statute or regulation shall control, to the extent permitted by state and federal law.

§ 282-7. Enforcement; violations and penalties.

A.

Enforcement provisions.

(1)

Enforcement. The following are criteria that the Town Board may consider for issuance, reissuance, suspension or revocation of a blasting permit:

(a)

Compliance with the blasting standards established by the Town of McMillan as noted herein by this chapter.

(b)

Development and submittal to the Town Board of the Town of McMillan of the explosives use plan and fails upon operation to comply with the plan.

(c)

Development and submittal to the Town Board of the Town of McMillan of the blasting log and fails upon operation to comply with the information called for by the blasting log.

(d)

Maintaining the financial assurance requested by the Town Board of the Town of McMillan.

(e)

Compliance with the operational hours for blasting as noted herein by this chapter.

(f)

Compliance with airblast and ground vibration standards established by the Town of McMillan as noted herein by this chapter.

(g)

Compliance with the pre-blasting notification requirements to residents and the Town Board as noted herein by this chapter.

(h)

Attempts made by the permittee or party in interest to comply with the provisions of this chapter.

(i)

Consideration of atmospheric, unknown conditions, including geophysical conditions, and other matters beyond the control of the permittee or party in interest.

(2)

Suspension/revocation.

(a)

Unless expressly provided herein or by other Town of McMillan ordinance provisions, the explosive use permit may be suspended or revoked for cause for substantial noncompliance with this chapter after the proper Town of McMillan hearing noted below, unless in an emergency condition determined by a designated member of the Town Board and either the Town Clerk, the Town Constable, or the permit issuer of the Town of McMillan wherein the license, registration or permit can be suspended temporarily for a set time period. Prior to any action for suspension or revocation, the Town Board of the Town of McMillan must, by the Town Clerk of the Town of McMillan, receive a verified complaint concerning the licensee, registrant or permittee. The following persons may file a verified complaint with the Town Board of the Town of McMillan:

[1]

The Town Chair.

[2]

The Town Clerk.

[3]

The Town Supervisors.

[4]

The Town Building Inspector.

[5]

The Town Constable or other law enforcement officer.

[6]

Any Town of McMillan resident.

[7]

A landowner within 1,000 feet of the blasting site.

(b)

The Town Board will make a determination if the allegations of the complaint are of sufficient magnitude, importance, or otherwise of such a nature as to require a formal evidential hearing.

(c)

The person subject to charges for violation of any Town of McMillan ordinance or any violation of a condition of the explosives use permit shall be provided a copy of the verified complaint and notice of hearing before the Town Board of the Town of McMillan. The hearing shall be required to be not less than 10 days nor more than 30 days after the receipt of notice, unless stipulated in writing by the Town Board of the Town of McMillan and the person subject to charges.

(d)

The person subject to charges for violation of any Town of McMillan ordinance or any violation of a condition of the explosive use permit shall be entitled to the following:

[1]

Representation by legal counsel.

[2]

Right to present and cross-examine witnesses.

[3]

Right to subpoena witnesses by the Town Chair of the Town of McMillan issuing subpoenas to compel attendance of witnesses.

(e)

The Town Board of the Town of McMillan may, after the hearing for any person previously issued an explosive use permit by the Town Board of the Town of McMillan, act as follows:

[1]

Revoke the permit as a final decision.

[2]

Suspend the permit for a date certain as a final decision.

[3]

Request additional information as an interim decision prior to taking future action.

[4]

Take no action on the permit as a final decision.

(f)

The final decision of the Town Board of the Town of McMillan to revoke or suspend the explosives use permit shall be subject to appeal to the Circuit Court.

B.

Penalties for violations. In addition to the denial, suspension or revocation of a permit issued under this chapter, any person who shall violate any provision of this chapter or who shall fail to obtain a permit as required hereunder shall, upon conviction of such violation, be subject to a penalty of a civil forfeiture as prescribed in § 1-4 of this Code, together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter. Any default of such forfeiture determined by a court of competent jurisdiction shall be subject to any penalties as provided by §§ 66.0109, 66.0113, 66.0114 and 66.0115, Wis. Stats., as may be amended.

Chapter 295. FIRES AND FIRE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Emergency services — See Ch. 61.

Explosives and blasting — See Ch. 282.

Fireworks — See Ch. 299.

Recycling and garbage collection — See Ch. 320, Art. II.

Article I. General Regulations

[Adopted 3-13-2000 as §§ 5-1-3 to 5-1-11 of the 2000 Code]

§ 295-1. Impeding fire equipment prohibited.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of a Fire Department along the streets, roads or alleys of the Town of McMillan at the time of a fire or when a Fire Department is using such streets or alleys in response to a fire alarm or for practice.

§ 295-2. Police power of Fire Department.

A.

Police authority at fires.

(1)

The Chief and Assistants or officers in command of a Fire Department at any fire are hereby vested with full and complete police authority at fires. Any officer of a Fire

Department may cause the arrest of any person failing to give the right-of-way to a Fire Department in responding to a fire.

(2)

The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting fire fighters and law enforcement officers and those admitted by order of any officer of the Department, shall be permitted to come.

(3)

The Fire Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire, he/she shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire.

B.

Firefighters to have powers of traffic officers. Members of a Fire Department, when at the scene of a fire or other emergency, or when Fire Department vehicles are upon the street pursuant to an emergency call, shall have the authority and duty of traffic officers to direct traffic, as conditions require, notwithstanding any other provision of this article.¹¹

[1]:

Editor's Note: Original Sec. 5-1-5, Fire inspections, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Such provisions were moved to § 295-13A.

§ 295-3. Damaging fire hose prohibited; parking by hydrants; blocking fire lanes.

A.

Driving over fire hose. No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to a Fire Department, and no vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

B.

Parking vehicles near hydrants. It shall be unlawful for any person to park any vehicle or leave any object within 10 feet of any fire hydrant at any time.

C.

No parking near fire. It shall be unlawful for any person, in case of fire, to drive or park any vehicle within 300 feet from the place of fire without the consent and authority of the Fire Chief or any law enforcement officer.

§ 295-4. Firefighters may enter adjacent property.

A.

Entering adjacent property. It shall be lawful for any fire fighter while acting under the direction of a Fire Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire, and in case any person shall hinder, resist or obstruct any fire fighter in the discharge of his/her duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting fire fighters in the discharge of their duty.

B.

Destruction of property to prevent the spread of fire. During the progress of any fire, a Fire Chief or his assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire, provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

§ 295-5. Duty of bystanders to assist.

Every person who shall be present at a fire shall be subject to the orders of a Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.

§ 295-6. Vehicles to yield right-of-way.

Whenever there shall be a fire or fire alarm or the Fire Department shall be out for practice, every person driving or riding in a motorized or other vehicle shall move and remain to the side of the street until the fire engine and fire truck and other fire apparatus shall have passed.

§ 295-7. Open burning.

Open burning shall be regulated as provided in Article III, Outdoor and Refuse Burning. [1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 295-8. Fire protection charges.

A.

State authority. Pursuant to §§ 60.55, 60.555, and 60.557, Wis. Stats., the Town of McMillan hereby establishes the following policy and procedure for the payment of fire costs incurred by the Town of McMillan.

B.

Liability for fire protection costs. The property owners of real estate within the Town of McMillan or vehicle owners for which fire protection services are provided shall be responsible for the costs of the fire calls made to their property or vehicles based upon

a fee schedule as established by the McMillan Fire Department and the Town Board, and on file with the Town Clerk.

C.

Liability for fire call from fire department other than authorized fire departments. It is the policy of the Town of McMillan to provide fire protection service to property owners in the Town of McMillan. Any property owner requesting fire protection directly from any fire department other than the McMillan Fire Department shall be responsible for the full costs billed to the Town for the fire call from any authorized fire department. Billings will include actual costs of any other department responding at the request of an authorized department under mutual aid.

D.

Billing and payment procedure. The costs of fire calls as outlined above shall be billed by the Town of McMillan to the property owner and paid to the Town Treasurer within 60 days of the date of the bill. The failure to pay the bill within 60 days may result in interest being charged at the rate of 1 1/2% per month from the date of the bill. Those bills remaining outstanding, including interest, for more than 90 days as of November 1 of any year shall become a lien against the real estate from which the fire protection was provided and shall be placed on the tax roll as a delinquent special charge pursuant to § 66.0627, Wis. Stats.

Article II. Fire Prevention and Safety Codes

[Adopted 3-13-2000 as Title 5, Ch. 2, of the 2000 Code]

§ 295-9. Intent.

It is the intent of this article to prescribe regulations consistent with recognized standard practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises.

§ 295-10. Adoption of state codes.

A.

The following orders, rule, and regulations of the Department of Safety and Professional Services, all of which are set forth in the Wisconsin Administrative Code as from time to time amended, are incorporated herein by reference and adopted as part of this article:

Ch. SPS 307, Explosives and Fireworks

Ch. SPS 310, Flammable, Combustible and Hazardous Liquids

Ch. SPS 314, Fire Protection

Ch. SPS 332, Public Employee Safety and Health

Ch. SPS 340, Gas Systems

Ch. SPS 343, Anhydrous Ammonia
Chs. SPS 361 to 366, Commercial Building Code
Wisconsin Electrical Code^u

[1]:

Editor's Note: Original Sec . 5-2-2(b), regarding adoption of National Fire Protection Association codes, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Whenever the provisions of the aforementioned codes conflict, the stricter interpretation shall apply.

C.

Official copies of each of said codes are now on file in the office of the Town Clerk and Fire Departments serving the Town and shall remain so filed and be, at all reasonable times, open to inspection by any interested persons.

§ 295-11. Application to new and existing conditions.

The provisions of this article shall apply equally to new and existing conditions except that existing conditions not in strict compliance with the terms of this article shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or adjoining property.

§ 295-12. Fire inspections; orders to eliminate fire hazards.

A.

Fire inspections.^u

(1)

The Fire Chief and Assistant Chiefs of the Fire Department(s) serving the Town of McMillan shall be the Fire Inspectors of the Town of McMillan and shall have the power to appoint one or more Deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the Department of Safety and Professional Services, particularly § 101.14, Wis. Stats.

(2)

While acting as Fire Inspectors pursuant to § 101.14(2), Wis. Stats., the Fire Chief, or any officer of the Fire Department designated by the Fire Chief, shall have the right and authority to enter any commercial building or upon any premises in the Town of McMillan at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code, he may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his/her duty to give such directions for the abatement of such conditions as he/she shall deem necessary and, if such directions are not complied with, to report such noncompliance to the State of Wisconsin Department of Safety and Professional

Services Fire Prevention Coordinator for further action. The Chief shall also report such noncompliance to the Town Board.

(3)

The Chief of the Fire Department(s) is required, by himself/herself or by officers or members of the Fire Department designated by him/her as fire inspectors, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made once per year in all of the territory served by the Fire Department, and more often as the Chief of the Fire Department orders.

(4)

Written reports of inspections shall be made and kept on file in the office of the Chief of the Fire Department in the manner and form required by the Department of Safety and Professional Services. A copy of such reports shall be filed with the Town Clerk.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Whenever any member of the McMillan Fire Department finds a building or upon any premises dangerous or consists of hazardous conditions, that member shall report such conditions to the Fire Chief. If the building is a commercial property, the Fire Chief or Fire Prevention Inspector shall conduct a fire prevention inspection to determine the violations and issue orders to correct such violations. If it is a residential property, the Fire Chief shall notify the Town Chairperson and the proper authorities about the situation. Violations that would be considered dangerous are:²¹

(1)

Dangerous or unlawful amounts of combustible or explosive matter.

(2)

Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible or explosive matter.

(3)

Dangerous accumulations of rubbish, wastepaper, boxes, shavings, or other highly flammable materials.

(4)

Accumulations of dust or waste material in air-conditioning systems or of grease in kitchen exhaust ducts.

(5)

Obstructions to or on fire escapes, stairs, passageways, door, or windows liable to interfere with the operation of the Fire Department or egress of occupants in case of fire.

(6)

Any building or other structure which, for want of repairs, lack of sufficient fire escapes or other exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a fire hazard or a threat to life and safety.

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 295-13. Service of orders.

A.

The service of such orders as mentioned in § **295-13** may be made upon the owner, occupant, or other person responsible for the conditions, either by delivering a copy of the same personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with said person a copy of said order or, if the owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post office address.

B.

If buildings or other premises are owned by one person and occupied by another under lease or otherwise, the orders issued in connection with the enforcing of this article shall apply to the occupant thereof, except where the rules or orders require the making of such additions to or changes in the premises themselves, such as would immediately become real estate and be the property of the owner of the premises; in such cases, the rules or orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant.

§ 295-14. Investigation of fires.

A.

A fire department serving the Town of McMillan shall investigate the cause, origin and circumstances of every fire occurring in the Town which is of suspicious nature or which involves loss of life or injury to persons or by which property has been destroyed or substantially damaged. Such investigations shall be begun immediately upon the occurrence of such a fire by the fire officer in whose district the fire occurs, and if it appears that such fire is of suspicious origin, the Chief of the Fire Department shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

B.

Appropriate law enforcement agencies, upon request of the Chief of the Fire Department, may assist in the investigation of any fire which, in the opinion of the Chief of the Fire Department, is of suspicious origin.¹¹

[1]:

*Editor's Note: Original Sec. 5-2-7, Banning and/or regulating the use of fire, burning materials, and fireworks during the existence of extreme fire danger, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Such provisions were moved to § **295-28**.*

Article III. Outdoor and Refuse Burning

[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 295-15. Purpose.

This article is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Town of McMillan due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

§ 295-16. Applicability.

This article applies to all outdoor burning and refuse burning within the Town of McMillan.

A.

This article does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

B.

This article does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in § **295-17** of this article.

C.

This article does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

§ 295-17. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CAMPFIRE

A small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.

CLEAN WOOD

Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure-treated with preservatives and

does not contain resins or glues, as in plywood or other composite wood products.

CONFIDENTIAL PAPERS

Printed material containing personal identification or financial information that the owner wishes to destroy.

FIRE CHIEF

The Chief of the McMillan Fire Department or other person authorized by the Fire Chief.

OPEN BURNING

Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

OUTDOOR BURNING

Open burning or burning in an outdoor wood-fired furnace.

OUTDOOR WOOD-FIRED FURNACE

A wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

REFUSE

Any waste material except clean wood.

§ 295-18. General prohibition on open burning, outdoor burning and refuse burning.

Open burning, outdoor burning and refuse burning are prohibited in the Town of McMillan unless the burning is specifically permitted by this article.

§ 295-19. Materials that may not be burned.

Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device.

A.

Rubbish or garbage, including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household, farm or business wastes.

B.

Waste oil or other oily wastes, except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.

C.

Asphalt and products containing asphalt.

D.

Treated or painted wood, including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

E.

Any plastic material, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

F.

Rubber, including tires and synthetic rubber-like products.

G.

Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with Chapter 320, Health and Sanitation, Article II, Recycling and Garbage Collection, except as provided in § 295-24 of this article.

§ 295-20. Open burning of leaves, brush, clean wood and other vegetative debris.

Open burning of leaves, weeds, brush, stumps, clean wood, and other vegetative debris is allowed only in accordance with the following provisions:

A.

All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

B.

Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.

C.

No commercial enterprise may open burn.

D.

Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this article and the approval of the Fire Chief or designee.

E.

Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the Fire Chief or designee.

F.

Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed, provided that the fire is confined by a control device or structure such as a barrel, fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.

G.

Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Fire Chief and if in accordance with other provisions of this article.

H.

Open burning under this section shall be conducted only following issuance of and in accordance with a permit issued under § 295-25 of this article.

I.

Open burning under this section shall only be conducted at a location at least 100 feet from the nearest building which is not on the same property.

J.

The size of the piles to be burned shall not exceed eight feet by eight feet by eight feet tall. Any piles exceeding this size will need the Fire Department to oversee the burn and will have a fee associated with it.

K.

Open burning shall be constantly attended and supervised by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

L.

No materials may be burned upon any street, curb, or on the ice of a lake, pond, stream, or body of water.

M.

Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 50 feet from any combustible material or building on the same property unless authorized by the Fire Chief.

§ 295-21. Burn barrels.

A burn barrel may be used without a permit in the Town of McMillan only in accordance with the following provisions:

A.

The burn barrel shall not be used to burn any of the prohibited materials listed in § 295-19 of this article and may only be used in accordance with the provisions of § 295-20, Subsections A through C, H and J.

B.

The burn barrel shall be located at least 100 feet from the nearest building that is not on the same property as the burn barrel and 50 feet from any combustible material or building on the same property.

C.

The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.

D.

The burn barrel shall not serve a commercial enterprise.

§ 295-22. Outdoor wood-fired furnaces.

An outdoor wood-fired furnace may be installed and used in the Town of McMillan only in accordance with the following provisions:

A.

The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in § **295-19** of this article.

§ 295-23. Fire Department practice burns.

Except as provided in this section for Fire Department practice burns, an existing unwanted building in the Town of McMillan may not be burned. A building, which is no longer standing, may not be used for a practice burn.

A.

An existing building may be burned only by the McMillan Fire Department and only if the Fire Chief determines that the burning is necessary for practice and instruction of firefighters or firefighting equipment and all appropriate DNR permits have been obtained.

B.

Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.

C.

A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.

D.

All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

E.

At least one week before a planned practice burn, the Fire Chief or designee shall notify residents within 1,200 feet of the site of the proposed burn.

§ 295-24. Exemption for burning certain papers.

A.

Notwithstanding § **295-19G** of this article, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this article.

B.

Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information.

C.

Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

D.

A fire set for burning of a small quantity of confidential papers shall be subject to and comply with § **295-20**, Subsections **A** through **C**, F, and H through L.

§ 295-25. Burning permits.

A.

No person shall start or maintain any open burning without a burning permit issued by the Fire Chief or designee.

B.

An outdoor campfire does not require a permit, provided that the fire complies with all other applicable provisions of this article.

C.

Any person responsible for burning leaves, brush, clean wood or other vegetative debris under § **295-20** of this article shall obtain a one-time burning permit before starting the fire.

D.

When weather conditions warrant, the Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.

E.

A burning permit issued under this section shall require compliance with all applicable provisions of this article and any additional special restrictions deemed necessary to protect public health and safety.

F.

Any violation of the conditions of a burning permit shall be deemed a violation of this article. Any violation of this article or the burning permit shall void the permit.

§ 295-26. Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire-suppression costs and any other liability resulting from damage caused by the fire.

§ 295-27. Right of entry and inspection.

The Fire Chief or any authorized officer, agent, employee or representative of the McMillan Fire Department may inspect any property for the purpose of ascertaining compliance with the provisions of this article. Note: If the owner or occupant of the

premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with §§ 66.122 and 66.123, Wis. Stats.

§ 295-28. Restrictions during existence of extreme fire danger.

A.

Declarations of emergency. When there occurs a lack of precipitation, there may exist an extreme danger of fire within the Town of McMillan. This extreme danger of fire affects the health, safety, and general welfare of the residents of the Town of McMillan and constitutes a state of emergency. It is hereby found that the regulation of fires, burning materials, and fireworks is necessary and expedient for the health, safety, welfare and good order of the Town during said emergency.

B.

Regulation of fires, burning materials, and fireworks.

(1)

Pursuant to § 323.11, Wis. Stats., and when a burning state of emergency is declared, it may be ordered that a person may not:

(a)

Set, build, or maintain any open fire, except:

[1]

Charcoal grills using charcoal briquettes, gas grills, or camp stoves on private property; or

[2]

Charcoal grills using charcoal briquettes, gas grills, or camp stoves in Town parks placed at least 20 feet away from any combustible vegetation.

(b)

Throw, discard, or drop matches, cigarettes, cigars, ashes, charcoal briquettes or other burning materials while outdoors except into a noncombustible container that does not contain combustible materials.

(c)

Light or ignite a flare, except upon a roadway in an emergency.

(d)

Light, ignite, or use anything manufactured, processed, or packaged solely for the purpose of exploding, emitting sparks or combustion for amusement purposes, including fireworks, firecrackers, bottle rockets, caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke, except in displays authorized by the Town where adequate fire prevention measures have been taken.

(2)

The Fire Chief or designee may impose additional requirements, as necessary.

C.

Period of emergency. Pursuant to § 323.11, Wis. Stats., burning emergencies shall become effective upon the time and date of the Fire Chief or designee or County Board declaring a state of emergency and shall remain in effect until the period of emergency ceases to exist or until the ratification, alteration, modification, or repeal of the burning state of emergency by the Fire Chief or designee or, when applicable, the County Board.

§ 295-29. Enforcement; violations and penalties.

A.

The Fire Chief or Assistant Chief of the McMillan Fire Department is authorized to enforce the provisions of this article.

B.

The penalty for violation of any portion of this article shall be a forfeiture of not less than \$25 or more than \$250 plus the cost of equipment and manpower to extinguish, if needed. Penalties are doubled for second and subsequent offenses.

Chapter 299. FIREWORKS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 7, Ch. 6, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Explosives and blasting — See Ch. 282.

Fires and fire prevention — See Ch. 295.

Peace and good order — See Ch. 389.

§ 299-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FIREWORKS

Anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

A.

Fuel or a lubricant.

B.

A firearm cartridge or shotgun shell.

C.

A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.

D.

A match, cigarette lighter, stove, furnace, candle, lantern or space heater.

E.

A cap containing not more than 1/4 grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

F.

A toy snake which contains no mercury.

G.

A model rocket engine.

H.

Tobacco and a tobacco product.

I.

A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.^[1]

J.

A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture.

K.

A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than 1/4 grain of explosive mixture.^[2]

L.

A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.^[3]

M.

A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.^[4]

N.

A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.^[5]

O.

A novelty device that spins or moves on the ground.^[6]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[5]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[6]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 299-2. Sale.

No person may sell or possess with intent to sell fireworks, except:

A.

To a person holding a permit under § **299-3C**.

B.

To a municipality.

C.

The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.^[4]

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

For a purpose specified under § **299-3B(2)** through **(7)**.

§ 299-3. Use.

A.

Permit required. No person may possess or use fireworks without a user's permit from the Town Chairperson or from an official or employee of the Town as designated by the Town Board. No person may use fireworks or a device listed under Subsections **E** through **G** and I through N of the definition of "fireworks" in § **299-1** while attending a fireworks display for which a permit has been issued to a person listed under

Subsection **C(1)** through **(5)** or under Subsection **C(6)** if the display is open to the general public.

B.

Permit exceptions. Subsection **A** above does not apply to:

(1)

The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two days in advance.

(2)

The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Safety and Professional Services.

(3)

The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.

(4)

The possession or use of explosive or combustible materials in any manufacturing process.

(5)

The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

(6)

A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. §§ 841 to 848 if the possession of the fireworks is authorized under the license or permit.^[1]

[1]:

*Editor's Note: Added at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

(7)

The possession of fireworks in the Town while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance. Subsection **A** applies to a person transporting fireworks under this subsection if, in the course of transporting the fireworks through the Town, the person remains in the Town for a period of at least 12 hours.^[2]

[2]:

*Editor's Note: Added at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

C.

Who may obtain permit. A permit under this section may be issued only to the following:

(1)

A public authority.

(2)

A fair association.

(3)

An amusement park.

(4)

A park board.

(5)

A civic organization.

(6)

Any individual or group of individuals.^[3]

[3]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(7)

An agricultural producer for the protection of crops from predatory birds or animals.

D.

Crop protection signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

E.

Bond. The Town representative issuing a permit under this section shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Town Clerk.

F.

Required information for permit. A permit under this section shall specify all of the following:

(1)

The name and address of the permit holder.

(2)

The date on and after which fireworks may be purchased.

(3)

The kind and quantity of fireworks which may be purchased.

(4)

The date and location of permitted use.

(5)

Other special conditions prescribed by ordinance.

G.

Copy of permit. A copy of a permit under this section shall be given to the Fire Chief at least two days before the date of authorized use.

H.

Minors prohibited. A permit under this section may not be issued to a minor.

§ 299-4. Storage and handling.

A.

Fire extinguishers required. No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.

B.

Smoking prohibited. No person may smoke where fireworks are stored or handled.

C.

Fire Chief to be notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.

D.

Storage distance. No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Restrictions on storage. No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 299-5. Parental liability.

A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

§ 299-6. Violations and penalties.

A person who violates this chapter shall forfeit not more than \$1,000.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 316. HAZARDOUS MATERIALS AND POLLUTANTS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 5, Ch. 3 and Title 8, Ch. 2, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Waste disposal facilities — See Ch. **495**.

§ 316-1. Disclosure of hazardous materials and infectious agents; reimbursement for cleanup of spills.

A.

Application.

(1)

All persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents shall notify the Fire Department serving the Town of McMillan as prescribed by this section.¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

(2)

The provisions of this section shall apply to all persons, firms or organizations, other than farms engaged in production agriculture, using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this section.

B.

Definitions. As used in this chapter, the following terms shall have the meanings indicated:

HAZARDOUS MATERIALS

Those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises, except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of "hazardous materials" shall include radioactive materials. "Hazardous materials" includes the list of hazardous wastes which is promulgated by the U.S. Environmental Protection Agency under § 6821(b) of the Resource Conservation and Recovery Act, as amended, and as further set forth in § 291.05, Wis. Stats.

INFECTIOUS AGENT

A bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.

C.

Information required.

(1)

Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:

(a)

Address, location of where hazardous materials are used, researched, stored or produced;

(b)

The trade name of the hazardous material;

(c)

The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;

(d)

The exact locations on the premises where materials are used, researched, stored and/or produced;

(e)

Amounts of hazardous materials on premises per exact location;

(f)

The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;

(g)

The flashpoint and flammable limits of the hazardous substance;

(h)

Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;

(i)

The stability of the hazardous substance;

(j)

Recommended fire extinguishing media, special fire-fighting procedures and fire and explosion hazard information for the hazardous material;

(k)

Any effect of overexposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;

(l)

Any condition or material which is incompatible with the hazardous material and must be avoided;

(m)

Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;

(n)

Procedures for handling or coming into contact with the hazardous materials.

(2)

Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:

(a)

The name and any commonly used synonym of the infectious agent;

(b)

Address/location where infectious agents are used, researched, stored and/or produced;

(c)

The exact locations where infectious agents are used, researched, stored and/or produced;

(d)

Amount of infectious agent on premises per exact locations;

(e)

Any methods or route of transmission of the infectious agents;

(f)

Any symptoms or effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;

(g)

Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;

(h)

Procedure for handling, cleanup and disposal of infectious agents leaked or spilled.

D.

Prohibited discharges. No person, firm, or corporation shall discharge or cause to be discharged, leaked, leached, or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, within the Town of McMillan, except those areas specifically licensed for waste disposal, landfill activities or farming activities using accepted farming practices and to receive such materials, any explosive, flammable, or combustible solid, liquid or gas, any radioactive material at or above nuclear regulatory restriction levels, etiologic agents, or any solid, liquid, or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid, or gas having a deleterious effect on the environment.

E.

Containment, cleanup, and restoration. Any person, firm, or corporation in violation of the above section shall, upon direction of any emergency government officer or the Fire Department, begin immediate actions to contain, clean up, and remove to any approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm, or corporation being responsible for all expenses incurred. Should any person, firm, or corporation fail to engage the necessary persons and equipment to comply or to complete the requirements of this section, the Office of Emergency Government may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the Town of McMillan.

F.

Emergency services response. Any emergency services response includes, but is not limited to, fire service, emergency medical service, and law enforcement personnel. A person, firm, or corporation who possesses or controls a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this section. The property owner may be billed a service fee if a fire department must respond. Actual and necessary expenses may include but not be limited to replacement of equipment damaged by the hazardous material, cleaning, decontamination, and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, cleanup, and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agency's medical advisor.

G.

Site access. Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff and to law enforcement and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, clean up, and restoration activities.

H.

Public protection. Should any prohibited discharge occur that threatens the life, safety, or health of the public at, near, or around the site of a prohibited discharge, and the situation be so critical that immediate steps must be taken to protect life and limb, the senior law enforcement or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the McMillan Town Board can take appropriate action.

I.

Reimbursement for cleanup of spills. Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the Town for actual and necessary expenses incurred by the Town or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstances.

§ 316-2. Recovery of costs.

A.

Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gases or other hazardous materials shall comply with the requirements of Ch. SPS 310, Wis. Adm. Code, as the same is now in force and may hereafter from time to time be amended.

B.

Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gases or other hazardous materials shall be liable to the Town for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

§ 316-3. Cleanup of spilled or accidentally discharged wastes.

A.

Cleanup required. All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the Town: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch basin wastes, oil or petroleum wastes.

B.

Notification. Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the Fire Department so that assistance can be given by the proper agency.

C.

Financial liability. The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the Town, or its designated agent, in an effort to minimize the pollutional effects of the discharged waste.

D.

Reimbursement for hazardous material emergency action.

(1)

Any person who possessed or controlled a hazardous substance that was discharged or who caused the discharge of a hazardous substance shall reimburse the Town of McMillan for actual, reasonable and necessary expenses incurred by the Town of

McMillan for any emergency action taken under, and consistent with, § 323.71, Wis. Stats., whether such action is taken by the Town of McMillan or another entity on its behalf or direction.

(2)

Reimbursement as provided under Subsection **D(1)**, above, will be accomplished as provided by § 323.71, Wis. Stats., by the Marathon County Board of Supervisors or by local emergency government officials.

(3)

Terms not defined above shall have the meaning referred to in § 323.70(1), Wis. Stats.

§ 316-4. Storage of polluting substances.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the Town of McMillan.

Chapter 320. HEALTH AND SANITATION

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Waste disposal facilities — See Ch. **495**.

Article I. General Regulations

[Adopted 3-13-2000 as Title 8, Ch. 1, of the 2000 Code]

§ 320-1. Rules and regulations.

The Town Board may make reasonable and general rules for the enforcement of the provisions of this article and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Town Board shall be subject to the general penalty provided for in § **1-4** of this Code.

§ 320-2. Abatement of health nuisances.

A.

Definitions. The following definitions shall be applicable in this section:

HEALTH NUISANCE

A health nuisance is any source of filth or cause of sickness.

B.

Duty to abate. The Town Board shall abate health nuisances pursuant to Ch. 823, Wis. Stats., which is adopted by reference and made a part of this section.

§ 320-3. Deposit of deleterious substances prohibited.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

§ 320-4. Destruction of noxious weeds.

A.

Unless delegated to the county, the Town Clerk shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the Town which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.

B.

If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the Town shall give five days' written notice by certified mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that said Weed Commissioner after the expiration of the five-day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of § 66.0407 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five-day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.

§ 320-5. Rodent control.

A.

Definitions. The following definitions shall be applicable in this section:

HARDWARE CLOTH

Wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rodents.

OWNER or MANAGER

Whenever any person or persons shall be in actual possession of or have charge, care or control of any residential property within the Town, as executor, administrator, trustee, guardian or agent, such person or persons shall be deemed and taken to be the owner or owners of such residential property within the true intent and meaning

of this section and shall be bound to comply with the provisions of this section to the same extent as the owner, and notice to any such person of any order or decision of the Building Inspector or his/her designee shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner or owners of such property.

RODENT

All nuisance animals.

RODENT HARBORAGE

Any place where rodents can live and nest without fear of frequent molestation or disturbance.

RODENT-PROOF CONTAINER

A container constructed of concrete or metal, or the container shall be lined with metal or other material that is impervious to rodents, and openings into the container, such as doors, shall be tight-fitting to prevent the entrance of rodents.

RODENT-PROOFING

Consists of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rodents, with concrete, sheet iron, hardware cloth or other types of rodent-proofing material approved by the Town.

B.

Elimination of rodent harborages. Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rodent harborage, the person, firm or corporation owning or in control of such materials shall cause the materials to be removed or the materials shall be stored so as to eliminate the rodent harborage. Lumber boxes and similar materials shall be neatly piled.

C.

Elimination of rodent-feeding places. No person, firm or corporation shall place, or allow to accumulate, any materials that may serve as a food for rodents in a site accessible to rodents. Any waste material that may serve as food for rodents shall be stored in rodent-proof containers.

D.

Extermination. Whenever rodent holes, burrows or other evidence of rodent infestation are found on any premises or in any building within the Town, it shall be the duty of the owner or manager of such property to exterminate the rodents or to cause the rodents to be exterminated. Within 10 days after extermination, the owner or manager shall cause all of the rodent holes or burrows in the ground to be filled with earth or other suitable material.

E.

Rodent-proofing. It shall be the duty of the owner or manager of any building in the Town of McMillan to make such building reasonably rodent-proof, to replace broken basement windows and, when necessary, to cover the basement window openings with

hardware cloth or other suitable material for preventing rodents from entering the building through such window openings.

§ 320-6. Composting.

A.

Purpose and intent. The purpose of this section is to promote the recycling of yard wastes and certain kitchen wastes through composting and to establish minimum standards for proper compost maintenance.

B.

Definitions. As used in this section, the following terms shall have the meanings indicated:

COMPOSTING

The controlled biological reduction of organic waste to humus.

KITCHEN WASTE

Any uncooked plant matter not contaminated by or containing meat, fish and/or dairy products.

YARD WASTE

The organic waste produced from the growing, trimming, and removal of grass, branches (not exceeding one inch in diameter), bushes, shrubs, plants, leaves and garden debris.

C.

Maintenance. All compost piles shall be maintained using approved composting procedures to comply with the following requirements:

(1)

All compost piles shall be enclosed in a freestanding compost bin. Each compost bin shall be no larger in volume than 125 cubic feet and shall be no taller than 42 inches.

(2)

All compost bins shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost bin shall be cause for the Town to proceed under § **320-5**.

(3)

All compost bins shall be so maintained as to prevent unpleasant odors.

(4)

No compost bin shall be allowed to deteriorate to such condition as to be a blighting influence on the surrounding property or neighborhood or Town in general.

(5)

Location; variances.

(a)

All compost bins shall be located not less than three feet from a property line or principal building or dwelling and three feet from any detached accessory building.

(b)

A variance from these setback requirements may be applied for if the property owner(s) can show a hardship exists which prohibits compliance. In addition, any variance application must include a signed written approval of the variance request from the adjacent property owner(s). Variances can be granted by the Town Clerk on an annual basis upon the proper application being submitted by the property owner(s). Screening and/or fencing of compost bins may be required as a condition of a variance being granted.

(6)

No compost bin shall be located in any yard except a rear yard unless a variance is granted by the Town Board.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(7)

Those composting bins which existed prior to the adoption of this section shall be given one year to comply with the requirements set forth herein.

D.

Ingredients.

(1)

No compost bin shall contain any of the following:

(a)

Lake weeds;

(b)

Cooked food scraps of any kind or type;

(c)

Fish, meat or other animal products;

(d)

Manures;

(e)

Large items that will impede the composting process.

(2)

Permitted ingredients in a compost bin shall include the following:

(a)

Yard waste;

(b)

Coffee grounds and used tea leaves;

(c)

Uncooked plant matter not contaminated by or containing meat, fish, and/or dairy products;

(d)

Commercial compost additives.

E.

Owner responsibility. Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this section.

§ 320-7. Recycling; refuse collection.

Recycling programs are coordinated through a six-township Northwest Recycling Board.^[2] See Article II, Recycling and Garbage Collection.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: On September 19, 2013, the Town, as part of the Northwest Recycling Board, entered into a residential waste and recyclable material collection contract with Advance Disposal-Marshfield. Said contract is on file in the Town offices.

Article II. Recycling and Garbage Collection

[Adopted 7-13-2009]

§ 320-8. General provisions.

A.

Findings and declaration of purpose. The Town Board of the Town of McMillan hereby finds and determines that there is an increasing necessity to conserve natural resources in landfill space and to promote recycling as mandated by state law. It is the purpose of this article to promote recycling, composting, and resource recovery through the administration of a mandatory recycling program, as provided in § 287.11, Wis. Stats., and Chapter NR 544, Wisconsin Administrative Code, by the Town of McMillan in order to protect and promote the public health, safety, and welfare.

B.

Supervision. The collection of garbage, recyclable materials and refuse as defined herein shall be under the supervision of the Town Board, which shall make such regulations as are necessary regarding the time and method of collection of garbage and recyclable materials.

C.

Statutory authority. This article is adopted as authorized under § 287.09(3)(b), Wis. Stats.

D.

Abrogation and greater restrictions. It is not intended by this article to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, codes or permits

previously adopted or issued pursuant to law. However, whenever this article imposes greater restrictions, the provisions of this article shall apply.

E.

Interpretation. In their interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirement or interpretation shall apply. Where a provision of this article is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wisconsin Administrative Code, and where the article provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this article, or in effect on the date of the most recent text amendment to this article.

F.

Applicability. The requirements of this article apply to all occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties within the corporate boundaries of the Town of McMillan.

G.

Administration. The provisions of this article shall be administered by the Town Board of the Town of McMillan.

H.

Effective date. The provisions of this article shall take effect on July 1, 2009.

I.

Definitions. For the purpose of this article, the following words and phrases shall have the meanings ascribed to them in this section:

ALUMINUM CANS

Includes used beverage cans only.

BAGS

Clear, colorless plastic bags designated for refuse, with sufficient wall strength to maintain physical integrity when lifted by top, with a capacity not to exceed 30 gallons and a loaded weight of no more than 50 pounds.

BIMETAL CONTAINER

A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

CONTAINER GLASS

Includes container glass only. "Glass" does not include ceramic cups, dishes, ovenware, plate glass, safety and window glass, heat-resistant glass such as Pyrex, lead-based glass such as crystal, or TV tubes.

CORRUGATED CARDBOARD

Includes corrugated cardboard only. Does not include waxed cardboard, or chipboard such as cereal boxes, shoe boxes, and similar materials.

HDPE

High-density polyethylene plastic containers marked by the SPI Code No. 2.

LDPE

Low-density polyethylene plastic containers marked by the SPI Code No. 4.

MAGAZINES

Magazines and other materials printed on similar paper.

MAJOR APPLIANCE

A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, water heater, microwave oven, refrigerator or stove.

MIXED PAPERS

Includes all grades of papers, including white, colored, ledger, shiny, coated, carbonless, or NCR papers; envelopes, including windowed, labeled, and kraft; magazines, catalogs, phone books, computer printout paper, glued pads and tablets, file folders, key punch cards, spiral notebooks, cereal boxes, shoe boxes, etc. Can include paper clips and staples. Does not include hand towels or other paper products from rest rooms, or soiled napkins and paper plates. Also does not include carbon paper, cellophane, or any waxed paper.

MULTIPLE-FAMILY DWELLING

A property containing five or more residential units, including those which are occupied seasonally.

NEWSPAPERS

Includes newspapers and newspaper advertisements only. Does not include "mixed paper" as defined in this subsection.

NONRESIDENTIAL FACILITIES AND PROPERTIES

Commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multiple-family dwellings.

OFFICE PAPER

High-grade printing and writing papers from offices in nonresidential facilities and properties.

PERSON

Includes any individual, corporation, partnership, association, local governmental unit, as defined in § 66.0131(1)(a), Wis. Stats., state agency or authority, or federal agency.

PETE

Polyethylene terephthalate plastic containers marked by the SPI Code No. 1.

PLASTIC BOTTLES

Includes only plastic bottles clearly marked with the SPI Code No. 1, 2, 3, 4, 5, 6 or 7. Does not include motor oil bottles, even if they are labeled SPI No. 1, 2, 3, 4, 5, 6 or 7.^[1]

POST-CONSUMER WASTE

Solid waste other than solid waste generated in the production of goods, hazardous waste as defined in § 291.01(7), Wis. Stats., demolition/construction wastes, scrap automobiles, or high-volume industrial waste, as defined in § 289.01(17), Wis. Stats.^[2]

PS

Polystyrene plastic containers marked by the SPI Code No. 6.

PVC

Polyvinyl chloride plastic containers marked by the SPI Code No. 3.

RECYCLABLE MATERIALS

Includes lead acid batteries; major appliances; waste oil; yard waste; aluminum cans; container glass; corrugated cardboard; mixed papers; newspapers; No. 1 through No. 7 plastics; tin cans; and waste tires.

SOLID WASTE

Any garbage, refuse or other discarded or salvageable materials, including materials resulting from industrial, commercial or agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits, or special nuclear or radioactive by product material.^[3]

SOLID WASTE FACILITY

A facility for solid waste treatment, solid waste storage, or solid waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. This term includes the land where the facility is located. This term does not include a facility for the processing of scrap iron, steel or nonferrous metal. This term does not include a facility which uses large machines to sort, grade, compact or bale clean wastepaper fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. This term does not include an auto junkyard or scrap metal salvage yard.

TIN CANS

Includes tin-coated metal cans and steel containers.

WASTE TIRE

A tire that is no longer suitable for its original purpose because of wear, damage or defect.

YARD WASTE

Leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material no greater than six inches in

diameter. This term does not include stumps, roots or shrubs with intact root balls.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 320-9. Containers.

A.

Occupants of single-family and two- to four-unit residences and owners of multiple-family dwellings and nonresidential facilities and properties within the Town of McMillan are required to use clear, colorless plastic garbage bags as defined in this article for the collection of solid waste. The purpose of the clear bags is for determining compliance with this article. Each person occupying and dwelling in a house or other building or portion thereof and producing garbage for collection shall provide and renew, when necessary, a sufficient number of cans or plastic bags to hold the garbage accumulating between collections without overloading. Before placing any solid waste in a waste container for collection, every occupant of a residential unit shall drain the solid waste free of water so that the solid waste containers shall contain relatively dry packages of nonrecyclable solid waste. It shall be the responsibility of every occupant of a residential unit to keep the containers dry and free from rainwater and snow.¹¹

[1]:

Editor's Note: Original Subsection (2), Garbage cans, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Garbage carts. Garbage carts shall be provided by the contractor in ninety-five-gallon size. Carts shall only consist of those provided by the contractor and not other commercially available containers of similar size. Carts shall remain the property of the contractor. All carts shall be maintained by the user in good, clean and sanitary condition.

C.

Location of containers. The garbage can(s) or plastic bag(s) or cart(s) and other refuse cans or containers shall be set out on the regular collection days at an easily accessible place on the premises at ground level as directed by the Town Board. The containers shall be easily accessible during winter months. Such containers for any roadside collection shall not be set out more than 12 hours prior to the day of collection and shall be removed no later than 24 hours after collection. No waste containers of any type shall be located at any time in any required front yards or corner side yards. No refuse containers of any type shall be located so that they are visible from the front of the property, except in cases of scheduled pickup.

D.

Treatment of noncombustible matter. No hot cinders or ashes or any smoldering embers shall be set out or placed in a refuse container of any kind on the day of collection. Regulation containers in accordance with Subsection **B** should be provided, and containers should be so protected to prevent the admission of snow and water. Frozen contents which are difficult to remove without possible damage to the containers will not be collected. All refuse must be in containers and no refuse placed on the ground will be shoveled therefrom by the collection crews. Noncombustible refuse shall not be placed in the same containers with garbage.

§ 320-10. Separation of recyclable materials.

A.

The^[1] Town Board of the Town of McMillan reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the Town or its contractors. The Town shall provide written notice to service recipients of this declaration.^[2]

[1]:

Editor's Note: Original Subsection (1), providing a list of materials to separate, which immediately preceded this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: Original Subsection (3), Separation of recycling materials, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Care of recyclable materials. To the greatest extent practicable, the recyclable materials separated in accordance with Subsections **A** and C shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be restored in a manner which protects them from wind, rain, and other inclement weather conditions.

§ 320-11. Preparation and collection of recyclable materials.

Except as otherwise directed by the Town Board of the Town of McMillan, occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the separated materials specified in § 320-10A(1) through (7):

A.

All recyclable materials shall be commingled in the ninety-five-gallon recycling bin provided by the Town and placed curbside by 6:00 a.m. on the scheduled collection day.^[1]

(1)

Aluminum cans shall be empty.

(2)

Container glass shall be cleaned. Labels can remain on glass. Glass should not be broken.

(3)

Corrugated cardboard shall be clean and must be flattened and bundled in bundles.

(4)

Mixed papers shall be bundled in bundles or placed in a brown paper grocery bag.

(5)

Newspaper shall be bundled in bundles or placed in brown paper grocery bag.

(6)

Plastic bottles No. 1 through No. 7 shall be clearly marked with the numbered recycling emblem. Caps must be removed. Labels can remain on plastic. Clean and flatten all bottles.

(7)

Tin cans shall be clean. Cutout ends are recyclable.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

The hauler has the right to reject or leave at the curb any recyclable material or solid waste that is not prepared according to the specifications of Subsection A(1) through (7) or in education materials provided by the contractor or the Town of McMillan to the service recipients. Materials may also be rejected if not separated from solid waste, placed in the proper container, or not designated recyclable materials or solid waste for collection. The hauler also has the right to refuse to pick up any solid waste if it contains recyclable containers and materials. In such cases, the hauler shall notify generator of materials in writing by means of a tag of the reasons for rejecting the items.

§ 320-12. Lead acid batteries, major appliances, waste oil, yard waste and waste tires.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste, and waste tires as follows:

A.

Major appliances shall be recycled at a retail business that sells appliances and accept used appliances for the purpose of recycling, at a scrap metal dealer, or at a solid waste facility that accepts appliances for the purpose of recycling. Any fee imposed for the recycling of used appliances shall be the responsibility of the generator.

B.

Lead acid batteries shall be recycled at a retail business that sells lead acid batteries and accepts used batteries for the purpose of recycling, or at a solid waste facility. Any fee imposed for the recycling of used batteries shall be the responsibility of the generator.

C.

Waste oil shall be recycled at a retail business that sells oil or automotive products and accepts oil for the purpose of recycling, at an oil refinery, or at a solid waste facility. Any fee imposed for the recycling of used oil shall be the responsibility of the generator.

D.

Yard waste shall either be home composted using an effective backyard compost system or transported to the Town compost site. No yard waste shall be disposed of as general waste.

E.

Waste tires shall be recycled at a retail business that sells tires of automotive products, or at a solid waste facility. Any fee charged for the recycling of used tires shall be the responsibility of the generator.

§ 320-13. Multiple-family dwellings and nonresidential facilities and properties.

Owners or designated agents of multiple-family dwellings and nonresidential facilities and properties shall do all of the following to recycle the materials specified in §§ 320-10A(1) through (7) and 320-12:

A.

Provide adequate, separate containers for the recyclable materials.

B.

Notify in writing, at least semiannually, all users, tenants, and occupants of the properties about the recycling program.

C.

Provide for the collection of the materials separated from the solid waste by the user, tenants, and occupants and the delivery of materials to a recycling facility.

D.

Notify users, tenants, and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

§ 320-14. Prohibitions on disposal of recyclable materials.

A.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in § 320-10A(1) through (9) or § 320-10C which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

B.

Unlawful burning. It shall be unlawful for persons to burn or bury solid waste and recyclable materials on residential and nonresidential properties. Burning shall be permitted only of clean wood.

§ 320-15. Lawful removal of recyclable materials (anti-scavenging).

It shall be unlawful for any person, unless under contract with or licensed by the Town of McMillan, to collect or remove any recyclable material that has been deposited or placed roadside for the purposes of collection for recycling.

§ 320-16. Commercial haulers.

A.

No person shall engage in, exercise or carry on a trade or business of picking up and hauling garbage and recyclable materials in the Town without first obtaining a license therefor as provided herein. It shall be unlawful for any person, unless licensed by or under contract with the Town of McMillan, to collect or remove any recyclable material that has been deposited or placed at the curb for the purpose of collection for recycling.

B.

Vehicle regulations.

(1)

Construction. All trucks or other vehicles, whether used by garbage collectors or by persons hauling their own garbage, shall be of substantial construction and the body shall be watertight or shall be a type commonly known as "packers." No vehicle shall be loaded so that the contents shall fall or blow from the vehicle. In the case of combustible refuse, the vehicles shall be equipped with a covering or the combustible refuse covered with a tarpaulin or similar covering in such a manner as to prevent the combustible refuse from falling or blowing from the vehicle.

(2)

Parking restrictions. No person shall park or cause to be parked any such vehicle as described in Subsection **B(1)** and used by such garbage collectors in any single-family residential district, two-family residential district, multiple-family residential district, or mobile home residential district of the Town of McMillan for more than one hour.

C.

Fee. The fee for a license required by this section shall be per vehicle each year, as provided in Chapter **72**, Fees. Such license shall expire on January 1 after its issuance and no reduction shall be made in such fee for a period of less than one year. The fee shall be paid to the Town Treasurer prior to the issuance or renewal of such license. In the event a license is being transferred from a licensee to a third party, such transfer, if approved, shall be made without an additional fee, except that a fee as provided in Chapter **72**, Fees, shall be paid to cover the cost of the transfer.^u

[1]:

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

D.

Application. Application for such license shall be made in writing to the Town Clerk on forms to be furnished by the Clerk and approved by the Town Board. The applicant shall furnish such information as may be required to prove the applicant to be of good character, in addition to any other information deemed necessary by the Town Board. Upon approval of the application by the Town Board, the license may be issued by the Town Clerk.

E.

Transfer of license. No license shall be transferred from the licensee to any other person, firm or corporation without the approval of the Town Board.

F.

Hauler restrictions. All haulers or contractors engaged in the hauling of garbage or recyclable materials within the Town of McMillan may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in the Town of McMillan. This includes any recyclable material separated from solid waste and/or solid waste that contains recyclable material. Haulers shall maintain recyclable materials in a marketable condition.

G.

Quarterly reporting. All haulers or contractors engaged in the hauling of garbage or recyclable materials within the Town of McMillan shall provide to the Town Clerk a quarterly report for solid waste tonnage and recyclable tonnage collected in the Town of McMillan from all sources.^[2]

[2]:

Editor's Note: Original Sec. 1.10, Hazardous material incident response reimbursement, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 320-17. Miscellaneous provisions.

A.

Additional regulations. A reasonable charge may be made for any collection service given by the Town of McMillan under this article, whether such charge is based upon the time, method, or manner of such collection or upon the kind of garbage or refuse, when such collection service consists of special services. The Town Board shall determine what collection service shall be a special service and shall also set the fee to be charged in each case. Such regulations shall be published in the same manner as codes and shall have equal effect.

B.

Building waste. All waste resulting from remodeling, construction or removal of a building, roadway or sidewalk shall be disposed of by the owner, builder or contractor.

C.

Nonresident disposal. No person shall bring waste for disposal into the Town of McMillan or to its dumping ground unless said person is authorized to do so by the

Town Board. All contracts for disposal of such waste produced outside the Town shall be entered into by the Town Board.

D.

Noncollectible materials. Animal offal, pet dropping and manure shall not be collected by the Town collection service, and the owner of such animals shall dispose of such wastes in a sanitary manner. Any exception to this section must meet with the approval of the Town Board.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Storage of waste material.

(1)

Ownership. All combustible and noncombustible matter collected by Town trucks or authorized vehicles shall be the property of the Town. Transfer of ownership is completed upon disposition into the trucks by the collection personnel. Every owner, tenant or person occupying any building is responsible for proper storage of all waste material.

(2)

Storing of refuse. Any accumulation of refuse, garbage or building waste on any premises in the Town is a nuisance and prohibited. The owner of the premises upon which the accumulation takes place shall be responsible for removal of the same and upon failure to remove it after written notice by the Fire Chief or the Building Inspector, the Town shall cause the removal of the accumulation and place the cost thereof on the tax roll of the property upon which the accumulation takes place.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

Dumping solid waste and yard waste. No person shall rake, deposit, throw, place or leave any solid waste or yard waste upon any highway, street, court, lane, alley, or other public way, park, vacant lot, yard, body of water, or any other place except in an appropriate solid waste or recycling container herein required for those purposes.

§ 320-18. Enforcement; violations and penalties.

A.

Any authorized officer, employee or representative of the Town of McMillan, including the hauler, may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, solid waste disposal facilities and solid waste treatment facilities, and any records relating to recycling activities, for the purpose of ascertaining compliance with the provisions of this article. No person may refuse access to any authorized officer, employee or authorized representative of the Town of McMillan or licensed hauler who requests access for

purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.¹³

[1]:

Editor's Note: Original Subsection (b), regarding issuance of citations, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Penalties for violating any section of this article may be assessed as follows:

[Amended 11-9-2009²²]

(1)

Any person or legal entity violating any of the provisions of this article shall, upon conviction thereof, forfeit not less than \$100 for the first violation, \$200 for the second violation within one year, and \$500 for a third or subsequent violation within one year, plus costs of prosecution.

(2)

Any person or contractor engaged in the business of hauling waste or recyclable materials within the Town of McMillan found in violation of any of the provisions of this article shall, upon conviction thereof, forfeit not less than \$200 for the first violation, \$400 for the second violation within one year, and \$1,000 for the third or subsequent violation within one year, plus costs of prosecution.

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 332. INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

Article I. Licensing

[Adopted 3-13-2000 as Title 7, Ch. 2, of the 2000 Code]

§ 332-1. State statutes adopted.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this article. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made a part of this article in order to secure uniform statewide regulation of alcohol beverage control.

§ 332-2. Definitions.

As used in this article, the terms "alcohol beverages," "intoxicating liquor," "principal business," "legal drinking age," "premises," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages," and "wholesaler" shall have the meaning given them by Chapter 125, Wisconsin Statutes.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 332-3. License required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this article nor without complying with all the provisions of this article, and all statutes and regulations applicable thereto, except as provided by §§ 125.26, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

§ 332-4. Classes of licenses.

A.

Retail "Class A" intoxicating liquor license. A retail "Class A" intoxicating liquor license, when issued by the Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

B.

Retail "Class B" intoxicating liquor license. A retail "Class B" intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquor to be consumed by the glass only on the premises so licensed and in the original package or container, in multiples not to exceed four liters at any one time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the premises.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Class "A" fermented malt beverage retailer's license. A Class "A" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1. The license shall expire on the following June 30.

D.

Class "B" fermented malt beverage retailer's license.

(1)

License. A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages to be consumed either upon the premises where sold or away from such premises. The holder may also sell beverages containing less than 0.5% of alcohol by volume without obtaining a special license to sell such beverages. Such license may be issued after July 1. The license shall expire on the following June 30.

(2)

Application. Class "B" licenses may be issued to any person qualified under § 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another, except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this article. Except as provided in § 125.295, Class "B" licenses may not be issued to brewers or brewpubs.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Temporary Class "B" fermented malt beverage license.

(1)

License. As provided in § 125.26(1) and (6), Wis. Stats., temporary Class "B" beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Town Board.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk, together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of \$200 and will be ineligible to apply for a temporary Class "B" license for one year. The license shall

specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Town Board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.

F.

Temporary "Class B" wine license.

(1)

License. Notwithstanding § 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than 6% alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under § 125.26(6), Wis. Stats., for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than 6% alcohol by volume from the stands while the fair is being held.^[4]

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of \$200 and will be ineligible to apply for a temporary "Class B" wine license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Town Board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.^[5]

[5]:

Editor's Note: Original Subsection (g), Wholesaler's license, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

Retail "Class C" licenses.

(1)

In this subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

(2)

A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(3)

A "Class C" license may be issued to a person qualified under § 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

(4)

A "Class C" license shall particularly describe the premises for which it is issued.

§ 332-5. License fees.

There shall be the following classes of licenses which, when issued by the Town Clerk under the authority of the Town Board after payment of the license fee and publication costs hereinafter specified, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in § 332-4 of this article and Chapter 125, Wis. Stats.:

A.

Class "A" fermented malt beverages retailer's license. The annual fee for this license shall be in accordance with Chapter 72, Fees. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

B.

Class "B" fermented malt beverage license.

(1)

The annual fee for this license shall be in accordance with Chapter 72, Fees. This license may be issued at any time for six months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(2)

A Class "B" fermented malt beverages license may also be issued to bona fide clubs, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering and at a meeting of the post. The fee for the license shall be as prescribed by Chapter 72, Fees.

C.

Temporary Class "B" fermented malt beverage license. The fee for this license shall be per event in accordance with Chapter 72, Fees.

D.

Temporary "Class B" wine license. The fee for this license shall be per event in accordance with Chapter 72, Fees. However, there shall be no fee if the temporary wine license is obtained along with a temporary fermented malt beverage license.¹¹

[1]:

Editor's Note: Original Subsection (e), Fermented malt beverage wholesalers' license, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

"Class A" intoxicating liquor retailer's license. The annual fee for this license shall be in accordance with Chapter 72, Fees.

F.

"Class B" intoxicating liquor retailer's license. The annual fee for this license shall be in accordance with Chapter 72, Fees. This license may be issued at any time for six months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.

§ 332-6. Application for license.

A.

Contents. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by §§ 887.01 to 887.03, Wis. Stats., and shall be filed with the Town Clerk not less than 15 days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

B.

Corporations. Such application shall be filed and sworn to by the applicant if an individual and by the president and secretary of a corporation.

C.

Publication. The Town Clerk shall publish each application for a "Class A," "Class B," Class "A" or Class "B" or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under § 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under § 125.51(10), Wis. Stats. The application shall be published once in the official Town newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under § 985.08, Wis. Stats.

D.

Amending application. Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within 10 days after the occurrence thereof.

E.

License quotas. Retail intoxicating liquor licenses issued by the Town Board shall be limited in number to the quota prescribed by state law.

§ 332-7. Qualifications of applicants and premises.

A.

Residence requirements. A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons, or their agents, who are citizens of the United States and who have seen residents of the State of Wisconsin continuously for at least 90 days prior to the date of the application.

B.

Applicant to have malt beverage license. No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

C.

Right to premises. No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.

D.

Age of applicant. Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.

E.

Corporate restrictions.

(1)

No license or permit may be issued to any corporation unless the corporation meets the qualifications under § 125.04(5)(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under § 125.04(6) and the officers and directors of the corporation meet the qualifications of § 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under § 125.04(6) meets the qualification under § 125.04(5)(a)2, Wis. Stats. The requirement that the corporation meet the qualifications under § 125.04(5)(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

(2)

Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders, together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within 48 hours after such transfer of stock.

(3)

Any license issued to a corporation may be revoked in the manner and under the procedure established in § 125.12, Wis. Stats., when more than 50% of the stock

interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this article or under the state law.

F.

Sales tax qualification. All applicants for retail licenses shall provide proof, as required by § 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.

G.

Separate license required for each place of sale. A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale, and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

H.

Off-street parking facilities. No new "Class B" intoxicating liquor license shall be issued for any premises unless said premises provides off-street parking stalls equal in number to 50% of the number of patrons which said premises may lawfully accommodate. This restriction shall not apply in the case of renewal licenses issued for premises licensed as of the date of the enactment of this subsection.

I.

Connecting premises. Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

J.

Limitations on other business; Class "B" premises. No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

(1)

A hotel.

(2)

A restaurant, whether or not it is a part of or located in any mercantile establishment.

(3)

A combination grocery store and tavern.

(4)

A combination sporting goods store and tavern in towns, villages and fourth class cities.

(5)

A combination novelty store and tavern.

(6)

A bowling alley or recreation premises.

(7)

A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the Class "B" license or permit.

§ 332-8. Investigation.

The Town Clerk shall notify the Town Constable, Fire Inspector and Building Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. A records check may also be requested from the appropriate law enforcement agencies. These officials shall furnish to the Town Clerk in writing, who shall forward to the Town Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

§ 332-9. Approval of application.

A.

No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent and unpaid.

B.

No license shall be issued unless the premises conforms to the sanitary, safety and health requirements of the State Building Code and the regulations of the State Department of Health Services applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all ordinances of the Town.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Consideration for the granting or denial of a license will be based on:

(1)

Arrest and conviction record of the applicant, subject to the limitations imposed by §§ 111.321, 111.322, and 111.335, Wis. Stats.;

(2)

The financial responsibility of the applicant;

(3)

The appropriateness of the location and the premises where the licensed business is to be conducted; and

(4)

Generally, the applicant's fitness for the trust to be reposed.

D.

An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board, the Town Board reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

§ 332-10. Granting or denial of license.

A.

In the event the application is for a "Class A" or a "Class B" intoxicating liquor license at a site not previously licensed under this article, the Town Clerk shall schedule public hearings before the Town Board on the granting of the license and shall notify all property owners situated in the block of the site for which the license is sought and all property owners within a radius of 300 feet of the proposed site of the dates of the hearings. The notice shall be given at least 10 days before the hearing and may be given by mail.

B.

Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to § 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least 10 days prior to the Town Board meeting at which the application is to be reconsidered.

§ 332-11. Transfer and lapse of license.

A.

In accordance with the provisions of § 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town Board. An application for transfer shall be made on a form furnished by the Town Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer shall be in accordance with Chapter **72**, Fees. Whenever a license is transferred, the Town Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Town for reissuance of said license, and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.^[1]

[1]:

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

B.

Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Town Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Town Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Town Board until the successor agent or another qualified agent is appointed and approved by the Town.

§ 332-12. Numbering of license.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 332-13. Posting licenses; defacement.

A.

Every person licensed in accordance with the provisions of this article shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.

B.

It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

§ 332-14. Conditions of license.

All retail "Class A," "Class B," Class "A" and Class "B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this section, and subject to all other ordinances and regulations of the Town applicable thereto:

A.

Consent to entry. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Town ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

B.

Employment of minors. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve fermented malt beverages in any place operated under a Class "A" or Class "B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service. ¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Disorderly conduct prohibited. Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

D.

Licensed operator on premises. There shall be upon premises operated under a "Class A," "Class B," "Class C," Class "A" or Class "B" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible

for the acts of all persons serving as waiters, or in any other manner, any alcohol beverages to customers. No person other than the licensee shall serve alcohol beverages in any place operated under a "Class A," "Class B," "Class C," Class "A" or Class "B" license unless he/she possesses an operator's license or there is a person with an operator's license upon said premises at the time of such service.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Health and sanitation regulations. The rules and regulations of the State Department of Health Services governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this article. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conforms to such rules and regulations.

F.

Restrictions near schools and churches. No retail "Class A," "Class B," Class "A" or Class "B" license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.

G.

Clubs. No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.

H.

Gambling prohibited. Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this article or the laws of the State of Wisconsin.

I.

Credit prohibited. No retail "Class A," "Class B," Class "A" or Class "B" liquor or fermented malt beverage or "Class C" wine licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, wares, merchandise or other articles in exchange for alcohol beverages.

J.

Licensee or permittee responsible for acts of help. A violation of this article by a duly authorized agent or employee of a licensee or permittee under this article shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this article shall violate any portion of this article, proceedings for the suspension

or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this article.

K.

Improper exhibitions. It shall be unlawful for any person to perform or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

(1)

Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(2)

Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(3)

Exposes any portion of the female breast at or below the areola thereof; or

(4)

Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

§ 332-15. Closing hours.

Closing hours shall be established in conformance with §§ 125.32(3) and 125.68(4), Wis. Stats., and further restricted as follows:

A.

"Class B," Class "B" and "Class C" licenses.

(1)

No premises for which a retail "Class B" liquor or Class "B" fermented malt beverage license or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1.

(2)

Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection **A(1)** above.

B.

Carry-out hours. Between 9:00 p.m. and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "B" license fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 332-16. Restrictions on temporary fermented malt beverage or wine licenses.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Town-owned property or privately owned property within the Town of McMillan, except through the issuance of a temporary Class "B" fermented malt beverage license or temporary "Class B" wine license issued by the Town Board in accordance with Wisconsin Statutes and as set forth in this section. A temporary Class "B" fermented malt beverage license or temporary "Class B" wine license authorizing the sale and consumption of beer and/or wine on Town-owned property or privately owned property may be authorized by the Town Board, provided the following requirements are met:

A.

Compliance with eligibility standards. The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society, as set forth in § 125.26(6), Wis. Stats., and shall fully comply with the requirements of this section. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B.

Posting of signs and licenses. All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.

C.

Fencing. If necessary due to the physical characteristics of the site, the Town Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one point of ingress and egress. When required, the double fence shall be a minimum of four feet high and a minimum of six feet between fences.

D.

Underage persons prohibited. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve fermented malt beverages in any place operated under a Class "A" or Class "B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Licensed operator requirement. A licensed operator shall be stationed at all points of sales at all times.

F.

Waiver. The Town Board may waive or modify the requirements of this section due to the physical characteristics of the licensed site.

G.

Insurance. The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a certificate of comprehensive general liability insurance with the Town of McMillan. The applicant may be required to furnish a performance bond prior to being granted the license.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 332-17. Revocation and suspension of licenses; nonrenewal.

A.

Procedure. Whenever the holder of any license under this article violates any portion of this article or Article II of this chapter, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this section.

B.

Abandonment of premises. Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the Town Board. All persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town shall cause such business described in such license to be operated on the premises described in such license for at least 150 days during the terms of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.

C.

License revocation or suspension. License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

§ 332-18. Non-alcohol events for underage persons on licensed premises.

The presence of underage persons on a licensed premises as provided under § 125.07(3)(a)10, Wis. Stats., shall be subject to the following:

A.

The licensee or agent of a corporate licensee shall notify the Town Clerk at least 48 hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Town Clerk during normal working hours. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Town in accordance with the provisions of this subsection. Regardless of the date given, all notices shall expire and be deemed canceled no later than the date of expiration or revocation of the applicable retail "Class B" or Class "B" license.

B.

During the period of any non-alcohol event a notice card prescribed by the Town shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Town to a requesting licensee.

C.

Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.

D.

During the period of any non-alcohol event, all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

§ 332-19. Operator's license.

A.

Operator's license required.

(1)

An operator's license is required as provided in §§ 125.32(2) and 125.68(2), Wis. Stats.[Ⓜ]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

(2)

Use by another prohibited.

(a)

No person may allow another to use his or her "Class A" or "Class C" license or Class "A," Class "B" or "Class B" license or permit to sell alcohol beverages.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(b)

The license or permit of a person who violates Subsection **A(2)(a)** above shall be revoked.

B.

Procedure upon application.

(1)

The Town Clerk may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk only to persons 18 years of age or older. Operator's licenses shall be operative only within the limits of the Town.

(2)

All applications are subject to an investigation by law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. These authorities may conduct an investigation of the applicant including, but not limited to, requesting information from the state, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the authorities may recommend, in writing, to the Town Clerk approval or denial of the application. If the authorities recommend denial, the authorities shall provide, in writing, the reasons for such recommendation.

C.

Duration. Licenses issued under the provisions of this section shall be valid for a period of one year and shall expire on the 30th day of June of each year.

D.

Operator's license fee; provisional license; temporary license.

(1)

Fee. The annual fee for an operator's license shall be in accordance with Chapter **72**, Fees, for the term or part thereof, plus actual records check costs. The fee for a provisional license shall be in accordance with Chapter **72**, Fees.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Provisional license. The Town Clerk may issue provisional operator's licenses in accordance with § 125.17(5), Wis. Stats. The provisional operator's license shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Town Clerk may, upon receiving an application for a

temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. A provisional license may not be issued to any person who has been denied an operator's license by the Town or who has had his operator's license revoked or suspended within the preceding 12 months. The Town Clerk shall provide an appropriate application form to be completed in full by the applicant. The Town Clerk may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application.

(3)

Temporary license. The Town Clerk may issue a temporary operator's license, at no fee, provided that:

(a)

This license may only be issued to operators employed by, or donating their services to, nonprofit corporations and organizations.

(b)

No person may hold more than one license of this kind per year.

(c)

The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.

E.

Issuance or denial of operator's licenses.

(1)

After the Town Clerk approves the granting of an operator's license, the Town Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

(2)

Denial.

(a)

If the application is denied by the Town Clerk, the Town Clerk shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the Town Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least 10 days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

(b)

If, upon reconsideration, the Board again denies the application, the Town Clerk shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to Circuit Court pursuant to § 125.12(2)(d), Wis. Stats., for review.

(3)
Considerations.

(a)
Consideration for the granting or denial of a license will be based on:

[1]
Arrest and conviction record of the applicant, subject to the limitations imposed by §§ 111.321, 111.322, and 111.335, Wis. Stats.;

[2]
The financial responsibility of the applicant;

[3]
The appropriateness of the location and the premises where the licensed business is to be conducted; and

[4]
Generally, the applicant's fitness for the trust to be reposed.

(b)
If a licensee is convicted of an offense substantially related to the licensed activity, the Town Board may act to revoke or suspend the license.

(4)
An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board (which may be delegated to subordinates), the Town Board reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Town Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

F.
Training course.

(1)
Except as provided in Subsection **F(2)** below, the Town Board or Town Clerk may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the Technical College System Board or a comparable training course, which may include computer-based training and testing, that is approved by the Department of Revenue or the Educational Approval Board, or unless the applicant fulfills one of the following requirements:¹⁴

(a)

The person is renewing an operator's license.

(b)

Within the past two years, the person held a "Class A," "Class B," Class "A," Class "B" or "Class C" license or permit or a manager's or operator's license.

(c)

Within the past two years, the person has completed such a training course.

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

The Town Clerk may issue a provisional operator's license to a person who is enrolled in a training course under Subsection **F(1)** above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

(3)

The Town Board or Town Clerk may not require that applicants for operators' licenses undergo training in addition to that under Subsection **F(1)** but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection **F(1)**.

G.

Display of license. Each license issued under the provisions of this article shall be posted on the premises whenever the operator dispenses beverages or be in his/her possession, or the licensee shall carry a license card.^[5]

[5]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

H.

Revocation of operator's license. Violation of any of the terms or provisions of the state law or of this article relating to operators' licenses by any person holding such operator's license shall be cause for revocation of the license.

§ 332-20. Violations and penalties.

A.

Forfeitures for violations of §§ 125.07(1) to (5) and 125.09(2), Wis. Stats., adopted by reference in § **332-1** of this article, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses.

B.

Any person who shall violate any provision of this article, except as otherwise provided in Subsection **A** herein, or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in § **1-4** of this Code of the Town of McMillan.

C.

Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Chapter 373. NUISANCES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 11, Ch. 6, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned vehicles — See Ch. **479**.

§ 373-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of McMillan, Marathon County, Wisconsin.

§ 373-2. Public nuisance defined.

A public nuisance is:

A.

A thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(1)

Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.

(2)

In any way render the public insecure in life or in the use of property.

(3)

Greatly offend the public morals or decency.

(4)

Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

B.

Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises is located.

§ 373-3. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § **373-2**:

A.

Adulterated food. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

B.

Unburied carcasses. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

C.

Breeding places for vermin, etc. Accumulations of decayed animal or vegetable matter (other than composting sites), trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

D.

Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply.

E.

Garbage cans. Garbage cans that are not flytight.

F.

Noxious weeds. All noxious weeds and other rank growth of vegetation.

G.

Water pollution. The pollution of any public or private well or cistern, stream, lake, canal or other body of water or groundwater by sewage, creamery or other wastes or substances.^[1]

[1]:

Editor's Note: Original Subsection (h), Noxious odors, etc., which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

H.

Street pollution. Any use of property that shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

I.

Animals at large. All animals running at large.

J.

Accumulations of refuse. Accumulations of old cans, lumber, elm firewood and other refuse.

K.

Air pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Town limits or within one mile therefrom in such quantities

as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

L.

Foul odors. Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or substances offensive to the physical senses of an ordinary person possessed of ordinary tastes and susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of persons within the Town. This definition shall not apply to odors produced through the operation of farming practices.

M.

Abandoned wells. All abandoned wells not securely covered or secured from public use.

N.

Junked vehicles. Disassembled, dismantled, partially dismantled, inoperable, junked, wrecked, or unlicensed motor vehicles, truck bodies, tractors, farm equipment, trailers, boats, or campers in such state of physical or mechanical ruin as to be incapable of propulsion, use or of being operated upon the public streets, highways, or waters.

O.

Abandoned equipment. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, lumber, trash, or debris.

§ 373-4. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § **373-2**:

A.

Disorderly houses. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

B.

Gambling devices. All gambling devices and slot machines, other than state-authorized programs.

C.

Unlicensed sale of liquor and beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for in the ordinances of the Town.

D.

Continuous violation of Town ordinances. Any place or premises within the Town where Town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

E.

Illegal drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Town.

§ 373-5. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § **373-2**:

A.

Signs, billboards, etc. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

B.

Illegal buildings. All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures within the Town.

C.

Unauthorized traffic signs. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.

D.

Obstruction of intersections. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

E.

Tree limbs. All limbs of trees which project over a public sidewalk or ditch area of the right-of-way less than 10 feet above the surface thereof and all limbs which project over a public street less than 14 feet above the surface thereof.

F.

Dangerous trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

G.

Fireworks. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.

H.

Dilapidated buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

I.

Wires over streets. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.

J.

Noisy animals or fowl. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

K.

Obstructions of streets; excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.

L.

Open excavations. All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.

M.

Abandoned refrigerators. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

N.

Flammable liquids. Repeated or continuous violations of the ordinances of the Town or laws of the state relating to the storage of flammable liquids.

O.

Snow and ice.⁽¹⁾

(1)

Sidewalks to be kept clear. The owner or occupant of any public or private property, buildings, schools, churches, hospitals, businesses or vacant lots adjacent to a sidewalk shall keep snow, ice and debris free and clear from the sidewalks for the safety, health and general welfare of the public. When ice is formed on the sidewalk so that it cannot be removed, it shall be kept sprinkled with ashes, salt, sand or like material.

(2)

Deposit on rights-of-way prohibited. No person shall deposit, by any means, snow and ice from private property onto any public streets, sidewalk, parking lot, alley or any other

type of public right-of-way. All existing sidewalks shall be kept clear of ice, snow and debris, regardless of condition, width or location.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

P.

Appliances and junk. Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a hazard except when such items are properly housed and out of public view.

Q.

Unauthorized street use. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

§ 373-6. Abatement of public nuisances.

A.

Inspection of premises. Whenever a complaint is made to a member of the Town Board that a public nuisance exists within the Town, the Town Board shall inspect or cause to be inspected the premises complained of.

B.

Notice to owner. If the Town Board determines that a public nuisance exists within the Town, it shall provide notice to the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises where such nuisance exists. The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove such nuisance within three days. The notice shall also state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

C.

Abatement by Town. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of such public nuisance.

D.

Abatement by court action. If the Town shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, the Town may cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Marathon County.

E.

Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

§ 373-7. Cost of abatement.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance. Such cost shall be assessed against the real estate as a special charge.

Chapter 389. PEACE AND GOOD ORDER

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 11, Chs. 1, 2 and 3, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fireworks — See Ch. 299.

Nuisances — See Ch. 373.

Vehicles and traffic — See Ch. 483.

Article I. State Statutes Adopted

§ 389-1. Offenses against state laws subject to forfeiture.

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the Town of McMillan. With the exception of § 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under § 1-4 of this Code. Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code. The penalty for truancy and high school dropouts shall be governed by the provisions of § 938.342, Wis. Stats., as adopted herein.

118.07	Health and safety requirements
118.08	School zones; crossings
118.09	Safety zones
118.10	School safety patrols
118.105	Control of traffic on school premises
118.11	School fences
118.123	Reports and records
118.163	Municipal truancy and school dropout ordinances
134.65	Cigarette and tobacco products retailer license
134.66	Restrictions on sale or gift of cigarettes or nicotine or

tobacco products

167.10 Regulation of fireworks

173.10 Investigation of cruelty complaints

173.24 Reimbursement for expenses

175.25 Storage of junked automobiles

254.92 Purchase or possession of cigarettes or tobacco products by person under 18 prohibited

254.76 Causing fires by tobacco smoking

938.125 Jurisdiction over juveniles alleged to have violated civil laws or ordinances

938.17 Jurisdiction over traffic, boating, snowmobile, all-terrain vehicle, and utility terrain vehicle violations and over civil law and ordinance violations

938.342 Disposition; truancy and school dropout ordinance violations

938.343 Disposition of juvenile adjudged to have violated a civil law or an ordinance

938.344 Disposition; certain intoxicating liquor, beer and drug violations

938.345 Disposition of juvenile adjudged in need of protection or services

939.05(2)(b) Parties to crime (aiding and abetting)

939.22 Words and phrases defined

940.19(1) Battery

940.291 Law enforcement officer; failure to render aid

940.42 Intimidation of witnesses; misdemeanor

940.44 Intimidation of victims; misdemeanor

941.01 Negligent operation of vehicle

941.10 Negligent handling of burning material

941.12(2) and (3) Interfering with fire fighting

941.13 False alarms

941.20(1) Endangering safety by use of dangerous weapon

941.23 Carrying concealed weapon

941.235 Carrying firearm in public building

941.24 Possession of switchblade knife

941.35 Emergency telephone calls

941.36 Fraudulent tapping of electric wires or gas or water meters or pipes

941.37(1) and (2) Obstructing emergency or rescue personnel

942.01 Defamation

942.03 Giving false information for publication

942.05 Opening letters

943.01(1) Damage to property

943.11 Entry into locked vehicle
943.125 Entry into locked coin box
943.13 Trespass to land
943.14 Criminal trespass to dwellings
943.145 Criminal trespass to a medical facility
943.15 Entry onto a construction site or into a locked building,
dwelling or room
943.20(1), (2) and Theft
(3)(a)
943.21(3)(am) Fraud on hotel or restaurant keeper, recreational attraction,
taxicab operator, or gas station
943.22 Use of cheating tokens
943.23(1) and (5) Operating vehicle without owner's consent
943.24 Issue of worthless check
943.34(1)(a) Receiving stolen property
943.37 Alteration of property identification marks
943.38(3) Forgery
943.41 Financial transaction card crimes
943.46 Theft of video service
943.50(1) to (3) Retail theft; theft of services
and (4)(a)
943.55 Removal of shopping cart
943.70 Computer crimes
944.15 Public fornication
944.17 Sexual gratification
944.20 Lewd and lascivious behavior
944.21 Obscene material or performance
944.23 Making lewd, obscene or indecent drawings
944.30 Prostitution
944.31 Patronizing prostitutes
944.32 Soliciting prostitutes
944.33 Pandering
944.34 Keeping place of prostitution
944.36 Solicitation of drinks prohibited
945.01 Definitions relating to gambling
945.02 Gambling
945.04 Permitting premises to be used for commercial gambling
946.40 Refusing to aid officer
946.41 Resisting or obstructing officer
946.42(2) Escape
946.46 Encouraging violation of probation, extended supervision
or parole

- 946.69 Falsely assuming to act as a public officer or employee or a utility employee
- 946.70 Impersonating peace officers, fire fighters, or other emergency personnel
- 946.72(2) Tampering with public records and notices
- 947.01 Disorderly conduct
- 947.012 Unlawful use of telephone
- 947.013 Harassment
- 947.06 Unlawful assemblies
- 948.01 Definitions relating to crimes against children
- 948.09 Sexual intercourse with a child age 16 or older
- 948.10 Exposing genitals or pubic area
- 948.11(1)(b) and (2)(b) Exposing a child to harmful material or harmful descriptions or narrations
- 948.21 Neglecting a child
- 948.40 Contributing to the delinquency of a child
- 948.50 Strip search by school employee
- 948.51(1), (2) and (3)(a) Hazing
- 948.60 Possession of a dangerous weapon by a person under 18
- 948.61(1) and (2) Dangerous weapons other than firearms on school premises
- 948.63 Receiving property from a child
- 951.01 Definitions relating to crimes against animals
- 951.015 Construction and application
- 951.02 Mistreating animals
- 951.03 Dog-napping and cat-napping
- 951.04 Leading animal from motor vehicle
- 951.05 Transportation of animals
- 951.06 Use of poisonous and controlled substances
- 951.07 Use of certain devices prohibited
- 951.08 Instigating fights between animals
- 951.09 Shooting at caged or staked animals
- 951.10 Sale of baby rabbits, chicks and other fowl
- 951.11 Artificially colored animals; sale
- 951.13 Providing proper food and drink to confined animals
- 951.14 Providing proper shelter
- 951.15 Abandoning animals
- 961.01 to 961.67 Uniform Controlled Substances Act

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 389-2. Penalties; attempt; parties to acts.

A.

Penalty. In addition to the general penalty provisions of this Code in § **1-4** or any other penalty imposed for violation of any section of this chapter or Chapter **373**, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated juvenile who violates § **389-8** may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code shall prevent law enforcement officers from referring violations of the provisions of this chapter or Chapter **373** to the District Attorney's office in the interest of justice.

B.

Attempt.

(1)

Whoever attempts to commit an act prohibited by this chapter or Chapter **373** of the Code of the Town of McMillan may be required to forfeit amounts not to exceed 1/2 the maximum penalty for the completed act.

(2)

An attempt to commit an act prohibited by the ordinances in this chapter or Chapter **373** requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he/she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he/she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

C.

Parties to acts.

(1)

Whoever is concerned in the commission of an act prohibited by this chapter or Chapter **373** of this Code is a principal and may be charged with and convicted of the commission of said act, although he/she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by this Code.

(2)

A person is concerned in the commission of an act prohibited by these ordinances if he/she:

(a)

Directly commits the act;

(b)

Intentionally aids and abets the commission of it; or

(c)

Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation

and which, under the circumstances, is the natural and probable consequence of the intended violation. This subsection does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

Article II. Offenses Against Public Safety and Peace

§ 389-3. Discharge of firearms.

Applicable state statutes shall be followed regarding the discharge of firearms in the Town of McMillan.

§ 389-4. Use of fireworks restricted.

No person shall use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Town of McMillan unless he shall be authorized by a fireworks permit as provided in Chapter 299, Fireworks, of this Code. The term "fireworks," as used in this section, shall be defined as provided in § 167.10(1), Wis. Stats., and shall be deemed to include all rockets or similar missiles containing explosive fuel.

§ 389-5. Loitering prohibited.

A.

General regulation of loitering or prowling. No person shall loiter or prowl in a place, at a time or in 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 person takes flight upon appearance of a law enforcement officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this subsection if the law enforcement officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

B.

Public property loitering prohibited.

(1)

No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.

(2)

Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

C.

Private property loitering prohibited.

(1)

No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls, without invitation from the owner or occupant or by any person in authority at such places.

(2)

Upon being requested to move by any such person in authority or by any law enforcement officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.^u

[1]:

Editor's Note: Original Subsection (d), Loitering by prowling prohibited, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Loitering by underage persons where alcohol beverage is dispensed.

(1)

Underage persons and intoxicants. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(2)

Permitting loitering permitted. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

E.

Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

LOITER

To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

NUISANCE

Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Town of McMillan.

PROWL

To move or roam about furtively, particularly on the property of another person.

§ 389-6. Disorderly conduct.

A.

Disorderly conduct prohibited. No person within the Town of McMillan shall:

(1)

In any public or private place, engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.

(2)

Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

B.

Disorderly conduct with motor vehicle. See Chapter **483**, Vehicles and Traffic, Article

IV.¹⁴¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Defecating or urinating in public places. It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Town, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings, or to indecently expose his/her person.¹⁴²

[2]:

Editor's Note: Original Sec. 11-2-5, Obscenity, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Article III. Offenses Against Property

§ 389-7. Destruction of property prohibited.

A.

Destruction of property. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Town of McMillan and belonging to the Town or its departments, or to any private person, without the consent of the owner or proper authority.

B.

Parental liability. Pursuant to § 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$5,000.¹⁴³

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 389-8. Littering prohibited.

A.

Littering prohibited. No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks, public rights-of-way, or other property of the Town, or upon any private property or the surface of any body of water within the Town of McMillan.

B.

Litter from conduct of commercial enterprise.

(1)

Scope. The provisions of this subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.

(2)

Cleanup of litter. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within 24 hours of the time the same is deposited or immediately if such litter or debris represents a traffic or safety hazard. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

(3)

Litter picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection **B(2)** within the time specified, the Town shall arrange to have the same picked up by Town crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of 20% for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Town Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this section.

C.

Dumping of refuse and grass along roads. Except for temporary placement up to six hours, no person shall deposit any refuse, leaves or grass clippings in any ditch or gutter along any public street, road, alley, public right-of-way or highway.

D.

Depositing of materials prohibited. Except as provided in Subsection **C**, it shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or

public property without authorization of the Town Board, or its designee, pursuant to the provisions of this Code, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

E.

Handbills.

(1)

Scattering prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the Town except by being handed to the recipient, placed on the porch, stoop or entrance way of the building, placed in newspaper boxes, or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

(2)

Papers in public places prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

(3)

Advertisements upon public or private property. No person shall place any advertisement upon any public property or any street, alley or public ground or upon any private property situated and fixed in any street, alley or public ground or upon any other private property, except by the permission of the owner thereof, but this subsection shall not apply to the posting of notices required by law.

§ 389-9. Abandoned refrigerators prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his/her control in a place accessible to children, any abandoned, unattended or discarded freezer, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

§ 389-10. Trespass.

A.

Purpose. This section is created for the purposes of securing to the residents of the Town of McMillan their rights to enjoyment and use of land and property by providing an efficient and orderly method of enforcement of such rights. This section is enacted under the authority of sections of the Wisconsin Statutes and acts amendatory thereto.

B.

Short title. This section may be referred to and cited as the "Town of McMillan Trespass Ordinance."

C.

Violations. It shall be unlawful and a violation of this section for any person to commit any of the following acts:

(1)

Enter upon any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any such activities.

(2)

To enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.

(3)

To hunt, shoot, fish, or gather any product of the soil on the premises of another, or enter said premises with intent to do any of the foregoing, after having been notified by the owner or occupant not to do so.

(4)

To enter upon any enclosed or cultivated land or another with a vehicle of any kind without the express or implied consent of the owner or occupant.

D.

How entry denied. A person has received notice from the owner or occupant within the meaning of this section if he/she has been notified personally, either orally or in writing, or if the land is posted.

E.

Failure to post. The failure of any person or occupant to post his or her lands shall not be deemed to constitute consent of such owner or occupant to any uninvited entry by another. Any entry by a person other than the lawful owner or lawful occupant of land or building shall constitute a violation of this section if such entry is made under circumstances tending to create or provoke breach of the peace.

§ 389-11. Damage to public property.

A.

Damaging public property. No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Town.¹¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 11).

B.

Breaking of street lamps or windows. No person shall break glass in any street lamps or windows of any building owned or occupied by the Town.

§ 389-12. Cemetery regulations.

A.

Purpose and definition. In order to protect cemetery areas within the Town from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the Town of McMillan.

B.

Authority to establish rules and regulations. The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.

C.

Specific regulations.

(1)

Disturbing cemetery property. No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property, except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.

(2)

Protection of cemetery property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery.

(3)

Motor vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.

(4)

Speed limit. No person shall operate any motorized vehicle in any cemetery in excess of 15 miles per hour unless otherwise posted.

(5)

Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.

(6)

Littering prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.

(7)

Pets. Pets, including animals of any species, are prohibited in any cemetery without the cemetery owner's consent.

(8)

Sound devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.

(9)

Authorized notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except under these regulations. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.

(10)

Loitering prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.

(11)

Alcohol beverages prohibited. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Town unless the property is specifically named as being part of a licensed premises.

(12)

Play vehicles prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this subsection, "play

vehicle" shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle, or toy vehicle upon which a person may ride.

(13)

Presence after hours prohibited. No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.^u

[1]:

Editor's Note: Original Sec. 11-3-7, Penalties, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Article IV. Weapons on Town Property

[Added 4-9-2012 (Title 5, Ch. 5, of the 2000 Code)]

§ 389-13. Carrying weapons in Town buildings.

Pursuant to § 943.13(1m)(c)4, Wis. Stats., no person shall enter or remain in any part of a building owned, occupied or controlled by the Town of McMillan if notified not to enter or remain in the building and/or grounds while carrying, concealed or otherwise, a weapon or firearm.

§ 389-14. Definitions.

As used in this article, the following terms shall have the meanings indicated:

FIREARM

A weapon that acts by force of gunpowder.

LAW ENFORCEMENT

Any person employed by the State of Wisconsin or any political subdivision of this state for the purpose of detecting or preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

WEAPON

A handgun, a switchblade knife as defined by § 941.24, Wis. Stats., or billy club.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 389-15. Firearms restricted in certain Town buildings.

In addition to the provisions of § 175.60, Wis. Stats., enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than law enforcement to enter the following buildings owned, occupied or under the control of the Town of McMillan while carrying a weapon or firearm:

A.

Municipal Center.

B.

Public Works Garage.

C.

Public Safety Building.

D.

Enclosed park shelters (i.e., Community Park Pavilion).

E.

Public grounds.

§ 389-16. Posting of signs.

Signs meeting the requirements of § 943.13(2)(bm)1, Wis. Stats., shall be posted in prominent places near all entrances of such buildings and grounds listed in § **389-15** above providing notice that no person is to enter or remain in any such building while carrying a weapon or firearm.

§ 389-17. Trespassing; penalties.

Any person who enters or remains in any Town buildings and grounds owned, occupied or under the control of the Town of McMillan listed in § **389-15** above contrary to such signage shall be considered a trespasser subject to penalty as prescribed under § 943.13, Wis. Stats.

Chapter 400. PROPERTY MAINTENANCE

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned vehicles — See Ch. **479**.

Article I. Junked Vehicles and Appliances

[Adopted 3-13-2000 as § 10-3-8 of the 2000 Code]

§ 400-1. Storage restricted.

Not more than two disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, or appliances shall be stored outside upon private residential property or unenclosed within a building upon nonresidential property within the Town of McMillan for a period exceeding 10 days unless it is in connection with an authorized business or agricultural enterprise located

in a properly zoned area maintained in such a manner as to not constitute a public nuisance.

§ 400-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS

Motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways or which are otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

INOPERABLE APPLIANCE

Any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

MOTOR VEHICLE

Is defined in § 340.01(35), Wis. Stats.

UNLICENSED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS

Motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

§ 400-3. Exceptions.

This article shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and in a non-nuisance manner in a properly zoned area when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided that such vehicles are stored in compliance with the ordinances of the Town of McMillan or Marathon County. Also excepted are motor vehicles registered pursuant to §§ 341.265 and 341.266, Wis. Stats. In other situations, the Town Board may issue temporary permits permitting an extension of not to exceed an additional 30 days' time to comply with this article where exceptional facts and circumstances warrant such extension.

§ 400-4. Enforcement.

A.

Whenever a law enforcement officer shall find any vehicles, vehicle parts or tires, or appliances, as described herein, placed or stored in the open upon private property within the Town, he/she shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this article. If said vehicle, part thereof or appliance is not removed within five days, a law enforcement officer shall cause to be issued a

citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.

B.

If such vehicle or appliance is not removed within 20 days after issuance of a citation, a law enforcement officer shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in §§ **479-3** through **479-6** by a law enforcement officer or his/her duly authorized representative. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.

§ 400-5. Violations and penalties.

Any person who shall interfere with the enforcement of any of the provisions of this article and shall be found guilty thereof shall be subject to a penalty as provided in § **1-4**. Each motor vehicle or appliance involved shall constitute a separate offense.

Chapter 427. SIGNS AND BILLBOARDS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 15, Ch. 5, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. **237**.

Property maintenance — See Ch. **400**.

§ 427-1. Intent; definitions.

A.

Intent. Outdoor signs of all types are to be regulated to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the Town of McMillan, and preserve the scenic and natural beauty of the Township. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and to provide more open space while maintaining the rural aesthetic nature of the Township.

B.

Definitions. The following definitions are used in this chapter:

AGRICULTURE SIGN

A sign advertising agriculture products being sold on the farm on which such products are produced.⁽¹⁾⁽²⁾

AWNING

A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.

BACK-TO-BACK SIGNS

Signs that are mounted back to back with the signs facing in opposing directions or in a V-shaped frame with an internal angle of less than 40°. V-shaped frame signs with an internal angle of 40° or greater shall be considered side-by-side signs.^[4]

BANNER

A sign with no enclosing framework, made of fabric, plastic or other non-ridged materials.

BILLBOARD

See § **427-7E**.^[4]

CROP SIGN

A sign that designates a variety or brand of an agriculture crop, fertilizer, herbicide, or pesticide that is being grown or used at that specific location, except signs indicating potential health risk due to chemical application.^[5]

DIRECTLY ILLUMINATED SIGN

Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

DIRECTORY SIGN

Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.

ELECTRONIC MESSAGE UNIT SIGN

Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or other noncommercial activities or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.^[6]

FLASHING SIGN

Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

GROUND AND/OR POST SIGN

Any sign which is supported by structures or supports in or upon the ground and independent of support from any building (also referred to as "freestanding sign").

IDENTIFICATION SIGN

Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

INDIRECTLY ILLUMINATED SIGN

A sign that is illuminated from a source outside of the actual sign.

MARQUEE

A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the

building wall and generally designed and constructed to provide protection against weather.

MARQUEE SIGN

Any sign attached to and made part of a marquee.

NONCONFORMING SIGN

Any sign which does not conform to the regulations of this chapter.

POLITICAL SIGN

Any sign intended for a political purpose or a message which pertains to an issue of public policy or concern to the electorate, but does not include a message intended solely for a commercial purpose.

PORTABLE SIGN

Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.

PROJECTING SIGN

Any sign extending more than 18 inches but less than five feet from the face of a wall or building.

REAL ESTATE SIGN

Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.^[1]

ROOF SIGN

Any sign erected upon or over the roof or parapet of any building.

SIGN AREA

The total area of the sign including advertising face and any border or structure around perimeter of the sign.^[2]

TEMPORARY SIGN

Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs, and banners, decorative-type displays or anything similar to the aforementioned.

TOTAL SIGN AREA

The sum of the sign area of all permitted individual signs on a parcel.

WALL SIGN

Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than 18 inches from such wall.

WINDOW SIGN

Any sign located completely within an enclosed building and visible from a public way.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: The original definition of "area of sign," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[5]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[6]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[7]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[8]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 427-2. Applicability.

A.

Regulations apply to all districts. The requirements of this chapter apply to all signs in all districts, unless specifically exempted or excluded.

B.

Governmental signs excluded. For the purpose of this chapter, "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by law, ordinance, or governmental regulations. All other signs and outdoor advertising are hereby regulated.

§ 427-3. Nonconforming signs.

A.

Signs eligible for characterization as legal nonconforming. Any sign located within the Town of McMillan limits on the date of adoption of this chapter hereafter which does not conform to the provisions of this chapter is eligible for characterization as a legal nonconforming sign and is permitted, provided that it meets the following requirements:⁽¹⁾

(1)

The sign was covered by a proper sign permit prior to the date of adoption of this chapter.

(2)

If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this chapter.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Loss of legal nonconforming status.

(1)

A sign loses its nonconforming status if one or more of the following occurs:

(a)

The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this chapter than it was before alteration.

(b)

The sign is relocated.

(c)

The sign fails to conform to the Township requirements regarding maintenance and repair, abandonment or dangerous or defective signs.

(2)

On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this chapter with a new permit secured therefor or shall be removed.

C.

Legal nonconforming sign maintenance and repair. Nothing in this chapter shall relieve the owner or user of a legal nonconforming sign or the owner of the property on which the sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs.

§ 427-4. General requirements.

A.

Illumination. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event shall an illuminated sign or lighting device therefrom be directed or beamed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance as determined by the Town Board. All signs shall be screened from beaming on residential windows. Rotating or moving time, message and temperature signs shall not be restricted by this subsection. Signs shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m. unless the premises are open during such hours.

B.

Awnings. Awnings containing printed messages or advertising shall be considered projecting signs and subject to the same requirements as other signs. For purposes of interpretation, only that portion of the awning containing the advertising or lettering shall be treated as a sign.

C.

Height limitation. No sign shall exceed 25 feet in height above the street pavement or sidewalk grade nearest to the sign or as otherwise stated herein.

D.

Rooftop signs. They shall not exceed 10 feet above the roof or parapet.¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Banners. No permanent sign or part thereof shall contain or consist of banners, strings of lights, pennants, ribbons, streamers, spinners, or other similar moving devices. Such

devices may be used as temporary signs subject to the approval of the Clerk for a period not to exceed 30 days.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Name of owner. All signs hung and erected shall be plainly marked with the name of the person, firm or corporation hanging or erecting the sign, and should any sign be or become unsafe or in danger of falling, the owner thereof or the person maintaining the same shall, upon receipt of written notice from the Clerk, proceed at once to put such sign in a safe and secure condition or remove the sign.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

Signs in public right-of-way prohibited. No sign shall be placed in any public right-of-way or on publicly owned property except publicly owned signs, such as traffic control signs and directional signs and projecting signs in the C-1 Commercial District which may extend over a sidewalk portion of a public right-of-way to a point no closer than three feet to the curb.^[4]

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

H.

Exceptions for certain signs in parks. The only exceptions to the prohibition of signs in public rights-of-way are signs promoting community, service, fraternal, or youth organizations, which are specifically approved by the Plan Commission for a specific period of time.^[5]

[5]:

Editor's Note: Original Subsection (i), Sign area, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 427-5. Sign permits required.

A.

Permit required. No persons shall erect, relocate, reconstruct or maintain or cause aforementioned within the Town of McMillan any signs without first having obtained and having in force and in effect a permit therefor from the Town Clerk.

B.

Permits required for existing signs. All signs not identified in § **427-6** will require a permit obtained from the Town Clerk.

(1)

All on-premises signs not included in that section will be given a grace period of six months to file a permit with the Town Clerk.

(2)

No fee will be charged if a permit is obtained or a copy of any existing permit is given to the Town Clerk within said time period after this chapter is adopted.

(3)

Failure to comply by not obtaining a permit within 90 days of notification after the grace period will result in the sign being deemed noncompliant.

(4)

After the six-month grace period, any existing sign deemed nonconforming will be required to pay the stated permit fees.

(5)

After one year of adoption of this chapter, if a permit is not filed with the Town Clerk, the sign will be ordered to be removed.

C.

On-premises signs in residential and agricultural zoning areas.

(1)

All regulations stated above in Subsection **B** will apply.

(2)

Failure to meet these standards will result in any repair or upgrade of the existing sign requiring a permit and meeting all standards set forth in this chapter.

D.

Permit fees. A permit fee, as provided in Chapter **72**, Fees, shall be paid to the Town Clerk for each sign permit issued under this chapter; provided, however, that a fee shall not be charged for putting an existing sign in conformance with this chapter or for a copy change when no change in business name is involved. Back-to-back signs will be calculated into the total square feet of sign area.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Sign applications.

(1)

Applications. Applications for a sign permit shall be made on forms provided by the Town Clerk and shall contain or have attached thereto the following information:

(a)

Name, address and telephone number of the applicant.

(b)

Location of building, structure or lot to which or upon which the sign is to be attached or erected.

(c)

Name of person, firm, corporation or association erecting the sign.

(d)

Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.

(e)

A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.

(f)

A scale drawing indicating the location and position of such sign on the property and in relation to nearby buildings or structures.

(g)

Copies of any other permit required and issued for said sign, including the written approval by the Town Clerk. In the case of illuminated signs, the Town Clerk shall examine the plans and specifications, including a signed affidavit from a licensed electrician who has inspected all wiring and connections in regard to the sign to determine if the same complies with the State Electrical Code.

(h)

Additional information as may be required by the Plan Commission or Town Board, if involved.

(2)

Action. Sign permit applications shall be filed with the Town Clerk, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 60 days of receipt from the applicant unless the time is extended by written agreement with the applicant.

(3)

Time limitation. A sign permit shall become null and void if work authorized under the permit has not been completed within six months of the date of issuance.

§ 427-6. Signs permitted not requiring a permit.

The following signs do not require a permit:

A.

Real estate for sale and for rent signs. Signs advertising the sale, lease, or rental of the premises upon which the sign is located shall not exceed 32 square feet in area, except in the A1, AR, AE, RM Zones, where the area of the sign shall not be more than four square feet. These signs are limited to one per parcel. One additional sign may be located up to one road mile from the property for sale. Signs must be removed within 10 days of close of sale. Signs up to 32 square feet may be used to advertise undeveloped lots in a new subdivision for a period no longer than two years after the issuance of a sign permit and where such signs are located at least 150 feet from the nearest dwelling.

B.

Professional name plates. Professional name plates not to exceed one square foot in area.

C.

Address signs. Signs denoting the name and address of the occupants of the premises and not to exceed four square feet in area.

D.

Farmstead identification signs. Farmstead identification signs of less than 32 square feet in area located in agricultural zoning (A3 or A4). These signs include the farm name and/or the name of farm operation. They must be no less than 15 feet from the public right-of-way.

E.

Agriculture sign. Limited to four square feet in sign area. Signs may be located up to one mile from the location where the product is sold.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Crop sign. Limited to four square feet of sign area.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

Community or church message boards. A sign displaying information of temporary interest to the general community regarding upcoming events or activities. Not to be erected more than 30 days prior to event or 14 days thereafter.

H.

Address signs. Signs identifying the street address of a commercial building or the street address or name of the occupants of a residence and/or the name of the residence. Limited to four square feet in area.

I.

Garage sale. Signs indicating the temporary, short-time sale of personal property items, limited to four square feet in sign area. Sign must be removed within 48 hours of conclusion of sale.

J.

No hunting signs and no trespassing signs. These signs, or of similar nature, are limited to four square feet in sign area.

K.

On-premises directional signs. Signs are limited to four square feet in sign area.

L.

Construction signs. Limited to 16 square feet of sign area per project, unless superseded by state law for particular types of projects. Signs must be removed within 10 days of project completion.

M.

Political signs. See § **427-10B**.^[4]

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

N.

Banner signs. A sign which is being used to display information of temporary interest to the general community regarding upcoming events or activities. Sign must be removed within 14 days of the event. Businesses are restricted to one banner sign per six-month period without a permit being required.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 427-7. Requirements for signs requiring a permit.

A.

Noncommercial signs and bulletin boards. On-premises signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs, societies, public institutions and apartment buildings shall be permitted when they do not exceed 20 square feet in area and when they are located on the premises of such institution or building. Each premises shall be permitted only one sign, which shall not exceed 10 feet in height.

B.

Residential zones. No sign shall be erected in any residential zone except as provided herein:

(1)

One on-premises unlighted professional, commercial or announcement sign or nameplate only and not over six square feet in area with maximum height of five feet.

(2)

Public, semipublic, religious or charitable institutions (holding a tax-exempt status from the IRS) may have an identification or directory sign not over 24 square feet in area.

(3)

Customary professional and home occupational signs.

(a)

Zoning and/or use permit for professional office or home occupation must exist.^[4]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(b)

Must be constructed more than 15 feet from the public right-of-way and must not exceed 15 square feet of area.

C.

On-premises commercial and institutional signs.

(1)

In a commercial, industrial, or institutional district, each business or institution shall be permitted two signs and one changeable letter signboard, except that a business located on a corner lot may be allowed one additional building wall-mounted sign or lettering on a side street building wall.

(2)

Only one of the permitted signs may be a freestanding or post sign.

(3)

All permanent wall signs placed against an exterior wall of a building may not extend more than one foot from the wall and shall not exceed 300 square feet in area.

(4)

Permanent ground signs shall not exceed 200 square feet on each side of a lot and not exceed 25 feet above the road grade. The total on-premises sign area of all signs for a single business shall not exceed 300 square feet in total area.

(5)

In the case of a multi-tenant business such as a shopping center, each tenant shall be allowed two square feet of outdoor advertising sign per linear foot of tenant space frontage.

(6)

Interior advertising within a shopping mall shall not be subject to this chapter.

D.

Shopping center signs.

(1)

A shopping center or shopping mall may erect one freestanding or post sign, except that if such shopping center is located on a corner lot or a through lot and if the least dimension of such lot is 500 feet or more, two freestanding or post signs may be permitted.

(2)

No more than one sign may be located on the same street frontage.

E.

Off-premises signs and billboards.

(1)

Off-premises signs and billboards are hereby defined as advertising signs advertising goods or services not provided on the parcel on which the sign is located. Further, off-premises signs can be used for public service messages, political messages and for public awareness messages. The off-premises signs are subject to the same maximum size and setback restrictions as in § **427-9** of this chapter.^[2]

[2]:

*Editor's Note: Amended at time of adoption of Code (see Ch. **1**, General Provisions, Art. **II**).*

(2)

The residents of the Town of McMillan have determined a need to maintain the rural aesthetic nature of the Town and to ensure open spaces along Town streets and highways. Therefore, the Town of McMillan deems it necessary to restrict all off-premises signs within the Town of McMillan limits.

(3)

Existing signs on the date of adoption of this chapter will be deemed to be legal nonconforming if the following provisions are met:

(a)

The sign owner possesses a legal state, county or Town permit or no permit was required at the time of adoption of this chapter.

(b)

A permit is obtained from the Town Clerk to continue this sign.

[1]

No fee will be charged if a permit is obtained or a copy of any existing permit is given to the Town Clerk within the six-month grace period after this chapter is adopted.

[2]

Failure to comply by obtaining a permit within 30 days of notification after the grace period will result in the sign being deemed noncompliant.

[3]

A registered letter will be sent to the sign company, if the address is unavailable a registered letter will be sent to the landowner, notifying them of a nonconforming sign.

[4]

After the six-month grace period, any existing sign deemed nonconforming will be required to pay the stated permit fees.

[5]

If after one year of adoption of this chapter a permit is not filed with the Town Clerk, the sign will be ordered removed. Any new sign will meet all standards herein stated.

(c)

The sign is not structurally altered in any way except for normal maintenance.

(d)

The sign is not relocated or fails to conform to Town requirements regarding maintenance and repair, abandonment or dangerous or defective design.

(e)

Noncompliant signs, after 30 days of notification, will be ordered by the Town Board to be removed by the owner. If not removed, it will be removed at the expense of the sign company and/or landowner.

(f)

Existing off-premises signs that become nonconforming as a result of this chapter shall not be subjected to maximum limits or repair in the event they are damaged. Replacement dimensions may not exceed the original design.

(g)

All off-premises sign shall be kept in good condition through proper maintenance and periodic painting of the sign and structures.

§ 427-8. Sign location to prevent traffic hazard.

No signs shall be erected within 100 feet of the intersecting rights-of-way of signalized intersections, and no signs shall be erected within 50 feet of the intersecting rights-of-way of all other streets.

§ 427-9. Types of on-premises signs.

A.

Post signs.

(1)

Post signs are signs in excess of six feet in height supported by a single pole or support structure.

(2)

The maximum area of the face of any post sign shall be 100 square feet.

(3)

The maximum height shall be 25 feet.

(4)

The minimum clearance over driveways and parking areas shall be 15 feet.

(5)

The pole support of a post sign shall not be less than 40 feet from any lot in any residential district.

(6)

More than one sign may be attached to one or more posts and be classified as one sign when a group of businesses occupies one or more than one building on one lot. The total sign surface area on the face of the post sign, including the individual sign, shall not exceed 100 square feet. The individual businesses signs attached to posts shall be included in the total allowable signage for each individual business.

B.

Freestanding signs.

(1)

Freestanding signs must be set back 30 feet from any residentially zoned lot or existing single- or two-family residence, except in situations where the dwellings are on the same lot as the business placing the sign.

(2)

Freestanding signs must be set back 15 feet from any street or driveway intersection or at their lowest point be six feet above grade to permit proper corner traffic vision.

(3)

Within the M-1 Light Industrial Zone, all freestanding signs shall have a minimum setback of 15 feet from any public road right-of-way and shall not be placed in any side or rear yard, except those necessary for traffic control, directional or safety purposes.^{u1}

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Projecting and nonprojecting building wall-mounted signs and wall or mounted sign lettering.

(1)

Each business shall be allowed one building wall-mounted sign or one set of sign lettering except as allowed elsewhere in this section.

(2)

The total size of all building wall-mounted signs and building lettering for each business shall not exceed the maximum signage area allowed for each business.

(3)

For purposes of this chapter, the size of building lettering without a defined border shall be calculated as the average height of the letters times the total width of all letters.

§ 427-10. Temporary signs.

A.

General. Temporary signs not exceeding 16 square feet in area, announcing special public or institutional events, the erection of a building, the architect, the builders, or contractors may be erected for a period of 60 days plus the construction period.

B.

Political signs. Political signs located on residential property, as defined in § 12.04, Wis. Stats., are limited to 11 square feet in sign area. They may only be displayed during an election campaign period as defined in § 12.04 Wis. Stats. All candidates for public office, their campaign committees, and other persons responsible for the posting of political signs shall remove them within 10 days following election day. Political signs on nonresidential property must meet all of the above restrictions. They are limited to 16 square feet in sign area.^{u1}

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 427-11. Portable trailer signs and signboards.

A.

Size limitations. Portable trailer signs or signboards shall not exceed 60 square feet in area.

B.

Temporary use only. Trailer signs and signboards shall not be located in a residential district for a period exceeding 48 hours or in a nonresidential district for a period exceeding 30 days, in any calendar year, except when stored outside the view from public rights-of-way on the owner's lot in a nonresidential district.

C.

Lighted portable signs. Lighted portable trailer signs shall require both a signed affidavit from a licensed electrician inspecting all wiring and a sign permit. Such signs may not project over the public right-of-way, nor include flashing lights or lights that may be confused with traffic or emergency lights. They may not be allowed projector lamps, inside silvered lamps, or exterior exposed lamps. Such signs must also be labeled by a recognized testing laboratory and shall include a ground fault interrupter (GFI) device.

§ 427-12. Obsolete and abandoned signs.

All signs considered to be obsolete or to be abandoned, such as signs identifying or advertising businesses, services or products no longer available, shall be removed within 90 days of notice by the Town at the owner's expense or at the expense of the sign contractor to whom the last permit was issued. Signs that normally employ changeable copy shall not be subject to this provision except in cases where the sign went with no copy or obsolete copy for a period exceeding six months.

§ 427-13. Exceptions.

Exceptions from the sign requirements in this chapter may be recommended by the Plan Commission and approved by the Town Board after specific finding by the Plan Commission that such exception is reasonable and necessary under special circumstances for which the exception is required and that such exception will not violate the intent of these provisions. The Plan Commission may stipulate conditions it deems necessary to protect the public health, safety and welfare.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 427-14. Construction and maintenance regulations.

A.

Installation. All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Town Clerk.

B.

Exceptions to height and setback requirements. Signs may be allowed in the setback area if they are below three feet or are pole-mounted and above 10 feet to the bottom of the sign. The pole diameter of pole-mounted signs shall not exceed 12 inches and shall not interfere with reasonable vision clearance.

C.

Prohibitions.

(1)

No sign shall be erected so that any portion of the sign or its supports is attached to or interferes with the free use of any fire escape, exit, any required stairway, door, ventilator or window.

(2)

No sign shall be erected that will interfere with, obstruct, confuse or mislead traffic.

D.

Search lights. The Town Clerk may permit the temporary use of a search light for advertising purposes in any district, provided that the search light will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than five days in any six-month period.

§ 427-15. Wind pressure and dead load requirements.

All billboards, signs and other advertising structure shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area and shall be constructed to receive dead loads as required in the Building Code^[1] or other ordinances of the Town of McMillan.

[1]:

*Editor's Note: See Ch. **237**, Building Construction.*

§ 427-16. Enforcement procedures; removal and fines.

If an illegal sign is not brought into compliance with this chapter after the expiration of notice periods included in this chapter, the Town Board or its designee may take any and all of the following actions it deems necessary:

A.

Remove the illegal sign at the expense of the owner of the real property upon which the sign is located. The property owner will be provided with a bill to cover the costs of removal. If the bill is not paid within 30 days of billing, the cost shall be assessed against the real property upon which the sign is located. The removed sign shall remain in the possession of the Town for a period of 60 days, after which the sign shall become the property of the Town. The owner shall be entitled to possession of the sign if the cost of removal is paid in full prior to the sixty-day period.^[1]

[1]:

Editor's Note: Original Subsection (b), regarding issuance of citations, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Pursue any other remedies available to the Town through state, county or local law.

Chapter 433. SNOWMOBILES AND ALL-TERRAIN VEHICLES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as §§ 10-2-1 and 10-2-3 of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 373.

Vehicles and traffic — See Ch. 483.

§ 433-1. Snowmobile and all-terrain vehicle routes.

A.

The following Town of McMillan roads may be used for snowmobile routes as provided for in § 350.02(2)(a)5, Wis. Stats.:

(1)

West of the abandoned railroad bed to the end of Marsh Road.

(2)

Lincoln Avenue from Park Street south to the end of the road.

B.

Other roads not designated in Subsection A shall not lawfully be used for snowmobile use.

C.

The Town Board shall cause the snowmobile vehicle routes which cross Town roads to be marked in accordance with § 350.13, Wis. Stats., and the Wisconsin Administrative Code.

D.

No person shall operate a snowmobile over the designated snowmobile routes at a rate of speed that exceeds the maximum posted speed limit.

E.

No person shall operate a snowmobile at a rate of speed that is unreasonable or improper, under the conditions, and having regard for the actual and potential hazards then existing, or in any careless way so as to endanger the person or property of another or while under the influence of intoxicating liquor, fermented malt beverages or a controlled substance.

F.

Any person, firm or corporation violating any of the provisions of this section shall, upon conviction, forfeit not less than \$10 nor more than \$200 for each offense together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned until the same are paid, for a period of time not to exceed 30 days.

[1]:

Editor's Note: Original Sec. 10-2-1, State all-terrain vehicle laws adopted, which immediately preceded this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 433-2. All-terrain and utility terrain vehicle routes.

[Added 11-12-2012]

A.

Title and purpose. The title of this section is the "Town of McMillan All-/Utility Terrain Vehicle Routes Ordinance." The purpose of this section is to establish all-terrain vehicle routes in the Town and to regulate the operation of all-/utility terrain vehicles in the Town.

B.

Authority. The Town Board of the Town of McMillan, Marathon County, Wisconsin, has the specific authority to adopt this section under § 23.33(8)(b) and (11), Wis. Stats.

C.

Adoption of section. This section adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting provides the authority for the Town to designate all-/utility terrain vehicle routes in the Town and to regulate the use of those routes and all-/utility terrain vehicles in the Town and provides for the regulation of the use of those routes and of all-/utility terrain vehicles in the Town.

D.

Operation of all-/utility terrain vehicles. Pursuant to § 23.33(4)(d)4, Wis. Stats., except as otherwise provided in § 23.33(4), Wis. Stats., no person may operate an all-/utility terrain vehicle on the roadway portion of any highway in the Town except on roadways that are designated as all-/utility terrain vehicle routes by this section. Operation of all-/utility terrain vehicles on a roadway in the Town that is an all-/utility terrain vehicle route is authorized only for the extreme right side of the roadway, except that left turns may be made from any part of the roadway that is safe given prevailing conditions.

E.

Designation of all-/utility terrain vehicle routes; hours of operation.

(1)

The following roads are designated all-/utility terrain vehicle routes in the Town: all roads in the Town of McMillan will be open to all-/utility terrain travel except all county roads and state highways.

(2)

No ATV travel is permitted between the hours of 10:00 p.m. and 5:00 a.m. except for nonrecreational purposes.

F.

Conditions applicable to all-/utility terrain vehicle routes. Pursuant to § 23.33(8)(d), Wis. Stats., the following restrictions are placed on the use of the Town all-/utility terrain vehicle routes designated by this section:

(1)

Routes shall be marked with uniform all-/utility terrain vehicle route signs in accordance with § NR 64.12(7), Wis. Adm. Code. No person may do any of the following in regard to signs marking Town all-/utility terrain vehicle routes:

(a)

Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the state, any municipality, or any authorized individual.

(b)

Possess any uniform all-terrain vehicle route or trail sign or standard of the type established by the Department of Natural Resources for the warning, instruction, or information of the public, unless he or she obtained the uniform all-terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle route sign or trail sign or standard creates a rebuttable presumption of illegal possession.

(2)

Operation shall be subject to all provisions of § 23.33, Wis. Stats., which is adopted as a part of this section by reference, pursuant to § 23.33(11), Wis. Stats.

(3)

All ATV and utility vehicle operators shall:

(a)

Observe posted roadway speed limits.

(b)

Ride single file

(c)

Slow the vehicle to 10 miles per hour or less when meeting pedestrians on the roadway.

G.

Applicability. This section applies only to the specified public roadways and does not give access or implied access to any private or public lands.

H.

Filing. A copy of this section shall be sent by the Town Clerk to the Marathon County Sheriff's Department.

Chapter 440. STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town Board of the Town of McMillan as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 446.

Article I. General Regulations

[Adopted 3-13-2000 as §§ 6-1-3 and 6-3-3 to 6-3-10 of the 2000 Code]

§ 440-1. Obstruction of intersections or traffic signs; tree removal; fences.

A.

Obstruction of intersections.

(1)

Purpose. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more roads, streets or alleys in the Town of McMillan any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

(2)

Traffic visibility. On a corner parcel, no fence, wall, hedge, planting or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the center-line grades of the intersecting streets in the area bounded by the street lines of such corner parcels and a line joining the points along said street lines 25 feet from the point of intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet.

B.

Obstruction of signs. It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in the Town. It shall be the duty of every owner of such tree, brush, shrubbery or vegetation to remove such obstruction.

C.

Abatement procedure. Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel, and the Town Clerk shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Town to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner.

D.

Trees on and adjacent to highway.

(1)

Removal of fallen trees. If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. If the tree is not removed by the property owner following notice from the Town, the Town may remove from any highway any fallen tree or trees therein and charge the cost thereof to the property owner pursuant to § 66.0627, Wis. Stats.

(2)

Planting trees and shrubs in highway. Any person owning or occupying land adjoining any highway may, with the approval of the Town Board, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway continuous to and within 10 feet of his land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.

E.

Cutting or injuring trees on highway. No person shall cut down, break, girdle, bruise the bark or in any other manner injure any public or private trees, shrubs or hedges growing within the highway, except that the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducive to the benefit and improvement of the owner's land or the highway facility. When it is necessary for trees in a road right-of-way to be removed, the adjacent property owner shall have a right of first refusal to have the wood.

F.

Fences. No person shall build or reconstruct any fence within the public road right-of-way.

§ 440-2. Injury to trees and shrubs prohibited.

A.

No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Town Board in the case of a public tree or shrub, do or cause to be done by others any of the following acts:

(1)

Secure, fasten or run any rope, wire, sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.

(2)

Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.

(3)

Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub, or place cement or other solid substance around the base of the same.

(4)

Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access or air, water and fertilizer.

(5)

Attach any sign, poster, notice and other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree, except that the Town may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.

(6)

Cause or encourage any fire or burning near or around any tree.

B.

All trees on any parkway or other publicly owned property near any excavation or construction of any building, structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees.

§ 440-3. Placement of rural mailboxes.

Rural mailboxes are prohibited on the right-of-way of all highways within the Town of McMillan except as hereinafter provided:

A.

Mailboxes are approved only if they are of a construction or design approved by the United States Postal Service or previously approved by the Postmaster.

B.

Newspaper tubes are permitted only if provided by the newspaper and are of a construction or design that will not present a hazard to the public use of the right-of-way.

C.

A nameplate bearing the name and address number of the mailbox owner shall be permitted on each box.

D.

The support for the mailbox and newspaper tube shall adhere to the standards governing construction of mailbox supports as established by the Wisconsin Department of Transportation and shall not constitute a hazard to the public use of the right-of-way.

E.

Mailbox and newspaper tubes must be located on the side of the road required by the United States Postal Service and so that the door to the mailbox or protruding end of the newspaper tube is at least one foot from the paved portion of the highway.

F.

The owner of each mailbox and/or newspaper tube shall, within 24 hours after the end of each snowfall, remove all snow and ice which has fallen or accumulated in front of said mailbox and/or said newspaper tube and shall remove the snow for a distance of 15 feet to each side of said mailbox and/or newspaper tube.

G.

No other object of any kind shall be attached to the mailbox, newspaper tube or its supports. No other objects, including but not limited to landscaping boulders or fences, may be placed on the right-of-way.

H.

This section is not intended to and shall not be construed to create any affirmative duty on the part of the Town of McMillan to locate and remove obstructing mailboxes.

§ 440-4. Mailbox replacement.

A.

The Town of McMillan will replace mailboxes damaged on the Town road system where it has been determined that:

(1)

Physical damage, which can be proven and documented by the owner or the Town, was caused by actual Town equipment contact.

(2)

The mailbox is of standard design and placed in conformance with U.S. Post Office standards.

(3)

The existing installation, mailbox and mailbox post were in good repair.

B.

The Town of McMillan will not replace mailboxes damaged on the Town road system where it has been determined that:

(1)

The mailbox was not of standard design or not placed in conformance with U.S. Post Office standards, even though it may have been damaged by Town equipment.

(2)

The mailbox, post and installation were not in good repair.

(3)

Evidence indicates that the weight of plowed snow resulted in the damage to the mailbox and/or post.

C.

Payment for replacement of mailboxes by the Town of McMillan shall be according to replacement costs. Special decorative mailboxes and/or posts will not be provided. If

the owner wishes to install a decorative mailbox and/or post that meets standards, it shall be at the owner's expense.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 440-5. Street numbers.

A.

System established. The McMillan Fire Department, with the authorization of the Town Board, will establish and maintain a street/fire numbering system.

B.

Buildings to have street numbers. Each principal building in the Town shall be assigned an official street number by the Town Clerk. All lots and parts of lots in the Town shall be numbered in accordance with a street numbering map on file in the office of the Clerk. Plats shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on the map.

C.

Street numbers to be displayed. The owner, occupant or agent in charge of the premises shall cause to be affixed a number sign in the designated location. The location of said signs shall be determined by a representative of the McMillan Fire Department.

D.

Noncompliance. If the owner or occupant of any building neglects for 20 days to duly attach and maintain the proper numbers on the designated area of the property, the Town shall serve him/her a notice requiring him to properly number the same, and if he/she neglects to do so for 10 days after service, he/she shall be subject to a forfeiture as provided in § 1-4.^u

[1]:

Editor's Note: Original Sec. 6-1-3, Burning or deposit of rubbish on highway rights-of-way prohibited, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 440-6. Dirt and debris on streets.

A.

In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway, or public ground in the Town of McMillan.

B.

The owner, occupant, or person in charge of private premises who places, causes or permits to remain any of said materials upon any street, sidewalk, alley, drainageway or

public ground in the Town of McMillan shall immediately remove said materials at no cost to the Town.

C.

Removal of materials.

(1)

The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainageway or public ground in the Town of McMillan shall immediately stop and remove said materials at no cost to the Town.

(2)

In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the excessive deposition of any materials upon any street, sidewalk, alley, drainageway, or public ground in the Town of McMillan, and which said operator fails to remove said materials as required in Subsection **B** above, the owner, occupant, or person in charge of said work on said private premises shall remove said materials at no cost to the Town.

D.

In the event the materials are not removed from the street in accordance with Subsection **B** and/or **C(1)** above, the Town shall cause the removal of such materials and shall charge said operator, or said owner, occupant, or person in charge of said work, the cost of the removal. In the event the person charged for said removal fails to pay such costs within 30 days, it shall be entered on the tax roll as a special tax against said property.

E.

In addition to the costs of removal, said operator, or said owner, occupant, or person in charge of said property, shall be subject to a penalty per occurrence as prescribed in § **1-4**. Each day that said materials are not removed shall constitute a separate offense under this section.

F.

It shall be unlawful for any person to push, blow or pile snow on or across a public right-of-way in such a way that causes an obstruction or danger to traffic or equipment. Piles of frozen snow within six feet of a roadway are prohibited.

§ 440-7. Adoption of state statutes concerning roads.

The statutory provisions in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and, by reference, made a part of this section. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutory regulations incorporated herein are intended to be made part of this section.

- § 66.1035 Rights of abutting owners
- § 82.19 Discontinuance of highways
- § 86.03 Trees on and adjacent to highways
- § 86.04 Highway encroachments
- § 86.05 Entrances to highways restored
- § 86.06 Highways closed to travel
- § 86.07 Digging in highways or using bridges for advertising
- § 86.105 Snow removal in private driveways
- § 86.19 Highway signs, regulation, prohibition
- § 893.83 Damages caused by accumulation of snow or ice; liability

Article II. Street Use Permits

[Adopted 3-13-2000 as Title 7, Ch. 7, of the 2000 Code]

§ 440-8. Purpose.

The streets in possession of the Town are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Town Clerk may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this article is enacted to regulate and control the use of streets pursuant to a street use permit to the end that the health, safety and general welfare of the public and the good order of the Town can be protected and maintained.

§ 440-9. Application for permit.

A written application for a street use permit by persons or groups desiring the same shall be made on a form provided by the Town Clerk and shall be filed with the Town Clerk. The application shall set forth the following information regarding the proposed street use:

A.

The name, address and telephone number of the applicant or applicants.

B.

If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.

C.

The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.

D.

The date and duration of time for which the requested use of the street is proposed to occur.

E.

An accurate description of that portion of the street proposed to be used.

F.

The approximate number of persons for whom use of the proposed street area is requested.

G.

The proposed use, described in detail, for which the street use permit is requested.

§ 440-10. Representative at meeting.

The person or representative of the group making application for a street use permit shall be present when the Town Board gives consideration to the granting of said street use permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

§ 440-11. Denial of street use permit.

A.

An application for a street use permit may be denied if:

(1)

The proposed street use is primarily for private or commercial gain.

(2)

The proposed street use would violate any federal or state law or any ordinance of the Town.

(3)

The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.

(4)

The application for a street use permit does not contain the information required above.

(5)

The application requests a period for the use of the street in excess of eight hours.

(6)

The proposed use could equally be held in a public park or other location.

B.

In addition to the requirement that the application for a street use permit shall be denied, as hereinabove set forth, the Town Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

§ 440-12. Permit fee; barricades.

Each application for a street use permit shall be accompanied by a fee in accordance with Chapter **72**, Fees. The applicant shall be responsible for obtaining state-approved barricades and pay the cost thereof.

§ 440-13. Insurance.

The applicant for a street use permit shall be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a certificate of comprehensive general liability insurance with the Town of McMillan. The applicant may be required to furnish a performance bond prior to being granted the permit.

§ 440-14. Termination of permit.

A street use permit for an event in progress may be terminated by law enforcement officers if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Town of McMillan. Law enforcement officers have the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

Article III. Construction of Highways

[Adopted 3-13-2000 as Title 6, Ch. 2, of the 2000 Code]

§ 440-15. Application to lay out and construct highway.

An application under this article to lay out and construct a new Town highway, other than as part of a new subdivision or plat, may be filed by six or more resident freeholders of the Town. Said application must in writing and it may be delivered to any Supervisor or the Town Clerk. The application shall contain a complete description and a survey map of the property in question. New streets and roads in subdivisions and plats shall be constructed pursuant to Chapter **446**, Subdivision of Land, and this article, where it is not in conflict with Chapter **446**.

§ 440-16. Restrictions on laying out highways.

A.

No Town highway shall be laid out through or upon any cemetery without the consent of those having the control of the cemetery.

B.

No Town highway shall be laid through or upon any structure, yard or enclosure used for educational or charitable purposes.

C.

No Supervisor shall act in laying out, altering, widening or discontinuing any highway in which he/she may be personally interested.

D.

When the laying out of a highway would require the construction of a bridge costing more than \$1,000, exclusive of donations, the order of the Supervisors laying out such highway shall not be effective unless approved by the electors of the Town, and an estimate by the Wisconsin Department of Transportation shall be conclusive of the cost of such bridge for the purposes of this section.

E.

Without the consent of the owner, no Town highway shall be laid out through or upon any garden or orchard or any building or fixture used for trade or manufacture or any other building or fixture or the yard or enclosure necessary to the use thereof, when the damage thereby caused thereto, exclusive of the damage to the land, exceeds \$300.

§ 440-17. Procedure after application is filed.

A.

On application made pursuant to § **440-16** above, the Town Board shall prepare a notice fixing therein a time and place at which it will meet and decide upon the application.

B.

The notice shall specify as near as practicable the highway proposed to be laid out, widened, altered or discontinued and the tracts of land through which the highway passes.

C.

If the application is for discontinuance, the notice shall specify the tracts of land abutting on the highway which will be benefited or injured by such discontinuance.

D.

When the description in the aggregate exceeds 200 words in length, the notice may state that such descriptions are contained in the application as provided in § 82.10(1), Wis. Stats., and shall give the name and address of the Town Clerk to whom the application has been delivered.

§ 440-18. Duties of applicants after application is filed.

A.

Applicants shall at least 30 days prior to date of hearing give notice by registered mail to all occupants and owners of record of lands through which the highway may pass.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Applicants shall give notice to the Wisconsin Department of Natural Resources by registered mail.^[2]

[2]:

Editor's Note: Original Subsection (c), regarding notice to the Board of Soil and Water Conservation District, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Applicants shall give notice by registered mail to the owners of record of all lands abutting the highway.^[3]

[3]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Applicants shall give notice by registered mail to the Secretary of Transportation, if the highway that is the subject of the application or resolution is located within one-quarter mile of a state trunk highway or connecting highway.^[4]

[4]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Applicants shall give notice by registered mail to the Commissioner of Railroads, if there is a railroad highway crossing, within the portion of the highway that is the subject of the application or resolution.^[5]

[5]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Applicants shall publish the notice as a Class 3 notice under Ch. 985 of the Wisconsin Statutes.^[6]

[6]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

Failure of applicants to comply with this section will invalidate the entire proceeding.

§ 440-19. Proceedings after notice.

A.

The Supervisors shall meet at the time and place stated in the notice pursuant to § **440-18A**.

B.

The Supervisors are to be satisfied that all notices as required by this article and the laws of the State of Wisconsin have been complied with.

C.

The Supervisors shall personally examine the highway which is the subject of the application and shall hear any reason that may be offered for or against laying out, widening or altering the highway.

D.

The Supervisors shall, after complying with Subsections A, B and C above, decide upon the application and shall grant or refuse the same as they deem best for the public good.

E.

The Supervisors may adjourn said hearing from time to time, not exceeding in all 30 days from the time of the first meeting, giving public notice of the time and place of such adjournment and by filing forthwith notice of such adjournment in the office of the Town Clerk.

§ 440-20. Order, award and recording.

A.

When Supervisors lay out, alter, widen or discontinue any highway, they shall make and sign an order therefor, incorporating therein a description of the highway and cause survey thereof to be made when necessary.

B.

Damages are to be awarded to landowner pursuant to § 440-21 hereafter.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

The order and award of damage shall be filed and recorded in the office of the Town Clerk within 10 days after the date fixed by the notice or adjournment for deciding upon the application.

D.

If the Supervisors fail to file the order and award within 10 days, they shall be deemed to have decided against the application.

E.

A certified copy of the order shall be transmitted by the Town Clerk to the Marathon County Highway Commissioner.

§ 440-21. Damages.

A.

The applicant(s) shall secure a release of damages from all occupants and owners of record and file it with the Town Clerk. The damages sustained by any person upon whose land any highway is laid out, widened or altered shall be fixed by agreement signed by the owner and the Supervisors and be filed in the Town Clerk's office. Such

agreement and every release of damages given shall bar any further claims for damages by the owner and all persons claiming under him. A land conveyance shall accompany the release of damages, which shall be properly recorded with the Marathon County Register of Deeds.

B.

If any owner does not so agree with the Supervisors as to his/her damages or does not deliver to the Supervisors a written release of all claims for damages, the Supervisors shall, at the time of making the highway order, assess the damages and make a written award specifying the sum awarded by them to each owner. The award shall be signed by the Supervisors and be filed in the Town Clerk's office with the order laying out, widening, altering or discontinuing the highway.

§ 440-22. Appeals.

Appeal from highway order shall be pursuant to § 82.15, Wis. Stats.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 440-23. Payment of construction expenses.

All expenses involved in the preparation, construction and dedication involved in highway construction under this article shall be borne by the applicant(s).

§ 440-24. Preliminary inspection.

Prior to the design, preparation and construction of any roadway to be dedicated to the Town of McMillan, the applicant shall notify the Town Chairperson or Town Clerk. An on-site meeting will then be arranged to be attended by the Town Board, the Town Engineer and the applicant. Plans must be provided in order for the Town Engineer to check the design and the drainage.

§ 440-25. Performance bond.

At the option of the Town Board, the applicant(s) shall prepare the highway (grade, ditch, and gravel, etc.) one year and surface it the next year in order to further compact the roadbed. If so, the applicant(s) shall provide a bond or irrevocable letter of credit which would enable the Town to finish the road in case of default by the applicant(s). The performance bond, irrevocable letter of credit, or cash escrow agreement shall be equal to the Town Board's or Town Engineer's estimated cost of the required improvements adjusted for inflation. If the required improvements are not complete within the eighteen-month period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond period for any additional period not to exceed one year;

however, the initial bond shall be required to run one year beyond the initial date of acceptance of improvements.

§ 440-26. Roadway specifications.

The road construction specifications for plats prescribed in Chapter **446**, Subdivision of Land, shall be applicable for both new roads ordered constructed under this article and for roads required as a condition of new plat approval.

§ 440-27. Final inspection.

Upon completion of the proposed highway, the Town Engineer will proceed to make final inspection, accepting or rejecting road, as the case may be. After all of the provisions of this article have been complied with, the roadway or easement will be inspected by the Town officials and, at that time, proof will be made by the presenting of waivers of liens or receipted bills that all work that has been done has been paid for or arrangements have been made for the payment through written instrument by the subdivider. If the road is rejected, corrections shall be made as recommended by Town Board, upon the Town Engineer's recommendation, before final inspection can then be made again. If final acceptance is then made, the owner or owners shall turn over to the Town the deed of all land necessary for the road as previously mentioned. No buildings permits shall be issued for property abutting any roadway constructed in Town that has not been accepted by the Town of McMillan Town Board, unless a performance bond has been assigned.

Article IV. Excavations and Openings

[Adopted 3-13-2000 as §§ 6-3-1 and 6-3-2 of the 2000 Code]

§ 440-28. Excavations of streets, alleys, public ways and roads.

A.

Permit required.

(1)

No person, partnership, utility or corporation or its agents or employees or contractors shall make or cause to be made any opening, excavation or boring in or under any public street, public road, public alley, public way, public ground, public sidewalk or Town-owned easement or fill or alter any culvert or construct or install additions or extensions to its existing facilities within the Town of McMillan without a permit therefor from the Town Chairperson or Clerk, or their designee.

(2)

The utility or contractor shall submit to the Town a written request for a utility construction/street excavation permit and a plan of the proposed alteration, boring, extension or addition, showing its location and details of construction, including specified depth, method of excavation, open cut or auguring, provisions for restoration

and whatever the Town would deem necessary for review and consideration. In being issued a permit, the utility or contractor agrees to be bound by the regulations of this section and § 440-30.

B.

Fee. The fee for an excavation or opening permit shall be in accordance with Chapter 72, Fees. The fee shall be paid to the Town Clerk, who shall issue a receipt therefor.

C.

Insurance required. A permit shall be issued only upon condition that the applicant submit to the Town satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$1,000,000 per one person, \$1,000,000 for one accident and property damage coverage of not less than \$1,000,000.

D.

Bond.

(1)

Before a permit for excavating, boring or opening any street or public way may be issued, the applicant must sign a statement that he/she will indemnify and save harmless the Town of McMillan and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit and that he/she will fill up and place in good and safe condition all excavations and openings made in the street and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Town Board for a period of one year, and that he/she will pay all fines imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drain-laying adopted by the Town Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Town. Such statement shall also guarantee that if the Town shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year.

(2)

Whenever the Town Board shall find that any such work has become defective within one year of the date of completion, it shall give written notice thereof to the contractor stating the defect, the work to be done, the cost thereof and the period of time deemed by the Town Board to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the Town for the cost of doing the work as set forth in the notice.

§ 440-29. Regulations governing excavations and openings.

A.

Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Town Chairperson or Town Clerk, or their designee.

B.

Removal of paving. In any opening or excavation, all paving materials shall be removed with the least possible loss of or injury to surfacing materials and, together with the excavated materials from the opening, shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.

C.

Protection of public.

(1)

Every opening and excavation shall be enclosed with sufficient barriers. Sufficient warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. No open flame warning pots shall be used. Except by special permission from the Town, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet where pipe or conduit has been laid.

(2)

All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Town in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

D.

Replacing street surface. In opening any public street, public alley, public sidewalk, public way, public easement or public ground, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which, in the opinion of the Town, is not suitable for refilling, shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be laid in layers not more than six inches in depth and each layer mechanically rammed or tamped to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. Trenches shall be compacted to 95% modified proctor, with test results from a certified soil tester filed with the Town Engineer. The Town may elect to have the opening for any street or sidewalk repaired by the Town, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening.

E.

Notice. It shall be the duty of the permittee to notify the Town Chairperson and/or Town Clerk, or the Town Engineer when requested by the Town, and all private individuals,

firms and corporations affected by the work to be done at least 24 hours before such work is to commence. The Clerk and/or Chairperson, or the Town Engineer when requested by the Town, shall also be notified at least four hours prior to backfilling and/or restoring the surface.

F.

Validity of permit. Unless the work shall be commenced within 30 days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Town may extend the time limitation for good cause. The utility or contractor shall have present at the site of construction and during the restoration period a copy of the construction plans and Town permit.

G.

Backfilling. Reconstruction shall be in accordance with the current cross-section or according to Town standards, whichever is stricter. If the surface is not restored as required, the Town may restore the surface and bill the permittee therefor; the Town shall perform such work and bill the cost thereof to the permittee.

H.

Emergency excavation. In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley, easement, way or ground and its agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.

I.

Excavation in new streets limited. Whenever the Town Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Town Board, the Town Engineer shall notify in writing each person, utility, Town department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street, or any real property abutting said street, that all such excavation work in such street must be completed within 90 days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five years after the date of improvement or repaving unless, in the opinion of the Town Board, an emergency exists which makes it absolutely essential that the permit be issued.

J.

Exception. The provisions of this section shall not apply to excavation work done by Town employees or contractors performing work under contract with the Town, except that the safety precautions under Subsection C hereof shall be complied with.

Article V. Utility Placement

[Adopted 3-13-2000 as Title 9, Ch. 2, of the 2000 Code]

§ 440-30. Introduction.

A.

Overview of utility accommodation. The Town of McMillan constructs, operates, and maintains the Town highway system. Utility companies provide service to major centers of population as well as to individual users. Both the Town and companies typically provide facilities that consider future as well as present needs. Cooperation between these two entities is essential if the public is to be served at the lowest costs consistent with the respective public service needs, obligations and interests.

B.

Primary purpose of the Town highway system. The primary purpose of the Town highway system is to provide a safe and convenient means for the vehicular transportation of people and goods. Any permitted use and occupancy of highway right-of-way for non-highway purposes is subordinate to the primary interests of the traveling public.

C.

Purpose of the utility accommodation policy. The purpose of this article is to prescribe the policies and procedures that shall be met by any utility whose facility currently occupies, or will occupy in the future, any Town highway or bridge over which the Town has maintenance jurisdiction.

D.

Utility accommodation.

(1)

Permits. It is the policy of the Town to permit utility facilities on Town highways when:

(a)

Such use and occupancy does not adversely affect the primary functions of the highways or materially impair their safety, operational, or visual qualities;

(b)

There would be no conflict with the provisions of federal, state or local laws or regulations or the accommodation provisions stated herein; and

(c)

The occupancies would not significantly increase the difficulty or future cost of highway construction or maintenance.

(2)

Additions. Nothing in this policy shall be construed as limiting the rights of the Town to impose restrictions or requirements in addition to and/or deviations from those stated herein in any permit where the Town deems it advisable to do so. An appropriate explanation for such action should be provided to the utility.

(3)

Alterations.

(a)

The permitted facilities shall, if necessary, be altered by the utility to facilitate alteration, improvement, safety control, or maintenance of the highway as may be ordered after permit approval. All costs for constructing, maintaining, altering, and relocating the permitted facilities shall be the obligation of the applicant, unless a specific Town-executed utility parcel or agreement otherwise provides.

(b)

If the utility encounters a hardship during installation that prevents installation in accordance with the permit, the utility may (at the risk of having to move the installation) make changes to permitted installation. The Town has final determination as to the validity of the hardship. If the Town determines that the changes were made due to the installer's preference and not due to hardship, the utility will take action within 10 days to correct such alterations. For clarification purposes, hardships are solid rock, uncrossable swamps, cemeteries, or similar circumstances that make construction physically or economically unfeasible.

§ 440-31. Permit requirements.

A.

Need for a permit. A utility shall obtain a permit from the Town before any use or occupancy of Town highways is allowed.

B.

Permit authorization to use and/or occupy right-of-way.

(1)

By issuance of a permit, the Town formally indicates that, subject to all applicable permit conditions, a specified use and/or occupancy of right-of-way is not adverse to the highway interests at the time of the permit approval.

(2)

The Town does not warrant that public title to the right-of-way is free and clear, does not certify that it has sole ownership, and does not indicate any intention to defend the utility in its peaceful use and occupancy of said lands.

(3)

The permit does not transfer any land nor give, grant or convey any land right in land or easement.

(4)

Written authorization from the Town does not relieve the utility from compliance with all applicable federal and state laws and codes and local laws and ordinances which affect the design, construction, materials, or performance of the work. The Town's authorization shall not be construed as superseding any other governmental agency's more restrictive requirements.

(5)

Each permit shall require that the standard indemnification language is part of the overall document.

(6)

The utility should retain a copy of the permit in its files during the entire time the facility is located on, over, or under a Town highway right-of-way.

§ 440-32. Required information.

A.

General policy. A utility's request to use and occupy the right-of-way cannot be considered until adequate information is provided. The amount of detail will vary with the complexity of the installation and highway involved, but must include the appropriate permit form, drawings or sketches, and installation information so that the effect on the highway operation, traffic safety, and visual qualities can be evaluated.

B.

Permit application forms.

(1)

Utilities shall only use the single-page, triplicate permit application forms which are made by the Town and available from the Town. Alteration of the permit form by the applicant is prohibited and shall be cause for application rejection or permit revocation.

(2)

One original, with attached copies, of the permit form shall be submitted per application to the Town Clerk via regular mail, courier service, or delivered in person.

(3)

The telephone number of the applicant shall be included on each permit form.

(4)

The current permit form is available at the office of the Town Clerk.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

C.

Permit drawings. Each permit application shall contain adequate drawings showing the existing and/or proposed location of all utility facilities within the right-of-way with respect to the existing highway or any planned highway improvement. The details shall include dimensions from the proposed utility installation to the commonly accepted right-of-way line and to the edge of the traveled way. For highway crossings, a cross-section detail showing depth of bury or overhead clearance is required along with the location of any bore pits (if needed). A distance reference from the crossing to the nearest public roadway intersection is also required. Land ties (e.g., approximate distance from the proposed facility to side road intersection, county line, etc.) shall be submitted with all permit drawings.

D.

Installation information. The utility shall provide installation information:

(1)

This information shall include, but is not limited to, a general description of the location, size, type, nature, and extent of the utility facilities to be installed or to be adjusted, and the impact on the utility's existing facilities to remain in place within the right-of-way.

(2)

The Town may require the utility to provide a description of proposed construction procedures, special traffic control and protection measures, proposed access points, coordination of activities with the highway contractor, and/or vegetation to be removed.

(3)

When an attachment to a structure is proposed, additional information is required. This information should include, but not be limited to, bridge number, weight of lines, hanger spacing, hanger details, and expansion/contraction details.^[2]

[2]:

Editor's Note: Original Subsection (e), Metric/English units, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Fees for the following shall be as provided in Chapter **72**, Fees:^[3]

(1)

Annual maintenance permit.

(2)

Permit application and review fee.

(3)

Inspection fee, per permit. Inspection fee is not required for spraying and trimming permits.

(4)

Open cuts across paved roadways.

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 440-33. Location requirements.

A.

General location. Utility facilities shall be located in such a manner in order to minimize the need for later adjustment to:

(1)

Accommodate proposed highway improvements.

(2)

Permit servicing or expanding such lines without obstruction or interference to the free flow of highway traffic.

(3)

Provide adequate vertical and horizontal clearance between an underground utility facility and a structure or other highway facility to allow maintenance of all facilities.

(4)

Be outside of the forty-five-degree cone of support for the footings of all highway structures.

B.

Crossing location.

(1)

Utility facilities shall cross the highway on a line as nearly perpendicular to the highway alignment as possible.

(2)

Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. Crossing locations to be avoided include:

(a)

Deep cuts.

(b)

Near footings of bridges and retaining walls.

(c)

Across highway intersections at grade or ramp terminals.

(d)

At cross drains where the flow of water may be obstructed.

(e)

Within basins of an underpass drained by a pump.

(f)

In wet or rocky terrain where it will be difficult to attain minimum bury.

C.

Underground longitudinal location.

(1)

The longitudinal location of underground utility facilities within the right-of-way shall provide as much clearance from the traveled way as conditions will allow. Such lines shall be on uniform alignment and be located at or as near as practical to the right-of-way line.

(2)

To maintain a reasonably uniform utility alignment, location variances may be allowed when irregular-shaped portions of the right-of-way extend beyond the normal right-of-way limits. No utility lines are allowed in the ditch bottom or on the inslope.

D.

Aboveground longitudinal location.

(1)

The longitudinal location of aboveground utility facilities shall be outside of the clear zone. Such lines shall be on a uniform alignment and be located at or as near as practical to the right-of-way line. Exceptions may be granted when no other location is feasible or when the clear zone extends to the right-of-way line.

(2)

If any aboveground utility facility is within the clear zone or is determined to be in a location that has a higher-than-average accident potential, the Town may require the utility facility to be approved yielding or breakaway construction or protected by a Town-approved barrier such as beam guard, crash cushion, etc. To maintain a reasonably uniform utility alignment location, variances may be allowed when irregular-shaped portions of the right-of-way extend beyond the normal right-of-way limits.

E.

Existing utilities.

(1)

When a utility facility exists within the right-of-way of an existing or proposed highway, it may remain, provided it does not adversely affect highway safety based on sound engineering judgment and economic considerations. The existing facility shall be relocated if:

(a)

It conflicts with any construction or maintenance activities;

(b)

It is located longitudinally under the pavement or shoulder for a reconditioning or reconstructed project; or

(c)

It is found to not be within accepted standards for depth of bury or overhead clearance or in a location not acceptable to the Town.

(2)

Exceptions may be granted for Subsections **E(1)(a)** and **(b)** above based on sound engineering judgment and economic considerations.

Chapter 446. SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 14, Ch. 1, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. **237**.

Erosion control and stormwater management — See Ch. **276**.

Streets and sidewalks — See Ch. **440**.

446a New Const Subdiv Specs 

Article I. Introduction

§ 446-1. Authority and purpose.

A.

Introduction. This chapter is adopted in accordance with the authority granted by § 236.45, Wis. Stats., and for the purposes listed in §§ 236.01 and 236.45, Wis. Stats.¹

(1)

The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town of McMillan.

(2)

This chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Purpose. The purpose of this chapter is to promote the public health, safety, convenience and general welfare of the community. The regulations are designed to lessen congestion in the highways and streets; to foster the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to discourage overcrowding of the land; to protect the community's agriculture base; to facilitate adequate provision for transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the Town and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, protecting farming and open spaces, and providing for the most appropriate use of land in the Town of McMillan.

§ 446-2. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

§ 446-3. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town of McMillan and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

§ 446-4. Title.

This chapter shall be known as, referred to, or cited as the "Town of McMillan Subdivision Ordinance" or "Town of McMillan Land Division Ordinance."

Article II. Definitions

§ 446-5. Definitions.

The following definitions shall be applicable in this chapter:

ALLEY

A public right-of-way which normally affords a secondary means of vehicular access to the side or rear of those properties whose principal frontage is a street.▯

APPROVING AUTHORITIES

A.

The Town Board of the Town of McMillan; however, if the plat is within an area the annexation of which is being legally contested, the governing bodies of both the annexing municipality and the Town shall approve.

B.

If within the extraterritorial plat approval jurisdiction of a municipality:

(1)

The Town Board.

(2)

The governing body of the municipality if by July 1, 1958, or thereafter it adopted a subdivision ordinance or an official map.

(3)

The County of Marathon, if it has a subdivision ordinance.

ARTERIAL STREET

A street which provides for the movement of relatively heavy traffic to, from or within the Town. It has a secondary function of providing access to abutting land.

BLOCK

A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines or county lines.

BUILDING

Any structure built, used, designed or intended for the support, shelter, protection or enclosure of persons, animals, chattels or property of any kind and which is permanently affixed to the land.

BUILDING SETBACK LINE

A line within a lot or other parcel of land between which line and adjacent boundary of the street upon which the lot abuts the erection of a building is prohibited, as prescribed by the appropriate zoning or other regulations.

CENTRAL PARK AND RECREATION AREA

An outdoor recreation site serving the residents of the entire Town of McMillan at a central location. Activities to include but not restricted to baseball, volleyball, tennis, basketball, picnics and playground activity.

CERTIFIED SURVEY MAP

The division of land by the owner or subdivider in compliance with the County Zoning Ordinance and, if applicable, County Shoreland Zoning, which results in the creation of not more than four parcels or building sites, any one of which is 35 acres in size or less, or the division of a block, lot or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the exterior boundaries of said block, lot or outlot.^[2]

COLLECTOR STREET

A street which collects and distributes internal traffic within an urban area, such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.

COMMISSION

The Plan Commission created by the Town Board pursuant to § 62.23 of the Wisconsin Statutes, except where specifically provided by this Code.

COMPREHENSIVE PLAN

A comprehensive plan prepared by the Town indicating the general locations recommended for the various functional classes of land use, places and structures and for the general physical development of the Town and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof. Typically, there exists a regional plan adopted by the North Central Wisconsin Regional Planning Commission and a Marathon County Farmland Preservation Plan, which constitutes a Town plan. Municipalities exercising extraterritorial jurisdiction may also have such plans. Devices for the implementation of these plans include zoning ordinances, jurisdictional highway system plans, land division control ordinances and capital improvement programs.

CUL-DE-SAC STREET

A local street closed at one end with a turnaround having a minimum diameter of not less than 120 feet provided for vehicular traffic.

CUL-DE-SAC, TEMPORARY

A local street terminating in a turnaround as provided in the definition of "cul-de-sac street" which will be extended as a through street within a time period approved by the Plan Commission. The subdivider shall submit

such assurances as required by the Committee that the street will be extended as a through street within the time allowed, as provided by Chapter **440**, Streets and Sidewalks, Article **III**, Construction of Highways.^[3]

DWELLING UNIT

Any room or group of rooms forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.

EASEMENT

The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.^[4]

EXTRATERRITORIAL PLAT APPROVAL JURISDICTION

The unincorporated area within 1 1/2 miles of a fourth-class city or a village and within three miles of all other cities.

FINAL PLAT

The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds.

FRONTAGE

The total dimension of a lot abutting a public street measured along the street right-of-way line.

FRONTAGE STREET

A local street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

HIGH-WATER ELEVATION

The average annual high water level of a pond, stream, lake, flowage or wetland referred to an established datum plan, or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in or destruction of vegetation, or other easily recognize topographic, geologic or vegetative characteristic.

IMPROVEMENT, PUBLIC

Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrianway, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.

JURISDICTIONAL HIGHWAY SYSTEM

A plan showing the level and agency of government assuming responsibility for construction, maintenance and operation of each segment of the total street and highway system within Marathon County.

LAND DIVISION ADMINISTRATOR

Person designated by the Town Board of the Town of McMillan charged with the responsibility of administering this chapter.

LOCAL MUNICIPALITY

For purposes of this chapter only, any form of jurisdictional government to include towns, cities, villages, counties, sanitary sewer district commissions, stormwater commissions, farm drainage districts, etc.

LOCAL STREET

A street of little or no continuity designed to provide access to abutting property and leading into collector streets.

LOT

A contiguous parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter and any applicable zoning ordinance.

LOT AREA

The area contained within the exterior boundaries of a lot, excluding streets and land under navigable bodies of water.

LOT, CORNER

A lot abutting intersecting streets at their intersection.

LOT, DOUBLE FRONTAGE AND REVERSE FRONTAGE

A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On such lot, both street lines shall be deemed front lot lines, but in the case of two or more continuous lots, there shall be a common front lot line.

LOT LINES

The peripheral boundaries of a lot as defined herein.

LOT, THROUGH

A lot having a pair of opposite lot lines along two more or less parallel public streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

LOT WIDTH

The width of a parcel of land measured along the front building line.

MEAN SEA LEVEL DATUM

Mean Sea Level Datum, 1929 Adjustment, as established by the U.S. Coast and Geodetic Survey.

MINOR STREET

A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."

MINOR SUBDIVISION

See "certified survey map."

NATIONAL MAP ACCURACY STANDARDS

Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities.

NAVIGABLE STREAM

Any stream capable of floating any boat, skiff or canoe of the shallowest draft used for recreational purposes. The final determination shall be made by the Wisconsin Department of Natural Resources.

NEIGHBORHOOD PARK

A neighborhood park provides space and facilities primarily for active and intensive recreational activities such as softball, tennis and basketball. Recreational activities are primarily non-resource-oriented and available for all ages within a given neighborhood. An ideal neighborhood park site is scenic, containing some natural resource areas for passive recreation. A neighborhood park site is usually located a maximum of 1/2 mile to 3/4 mile from its primary users. Suggested minimum size is one acre.

OBJECTING AUTHORITIES

Those authorities defined in Chapter 236, Wis. Stats., which have limited powers to object to a subdivision plat include the Department of Administration, the Department of Transportation (for plats that abut or adjoin a state trunk highway or streets that form a connecting link between segments of state trunk highway) and the Department of Safety and Professional Services (to review plats not served by public sewer according to the rules relating to lot size and elevation necessary for proper sanitary conditions).

OPEN SPACE LANDS

Those lands that are undeveloped or that are not used for buildings or structures, transportation, communication or utility facilities, or any other type of stationary or fixed development, so as to be both physically and psychologically open in relation to other adjacent land uses. Undeveloped woodlands, wetlands, marshes, prairies, wildlife habitat areas, agricultural lands, lakes, rivers, streams and their associated shoreland and woodlands are examples of open space lands. Other types of open space lands include parks, parkways and golf courses.

OUTLOT

A parcel of land, other than a lot or block, intended for transfer of ownership or private right-of-way. An outlot may not be used as a building site unless it is in compliance with restrictions imposed under this chapter with respect to building sites. An outlot may be a private road or alley, a nonbuildable parcel having poor soils or topographic conditions or a remnant parcel.

OWNER

Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.

PEDESTRIAN PATHWAY

A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

PLAT

The map, drawing or chart on which the subdivider's plat of subdivision is presented to the Town for approval.

PRELIMINARY PLAT

The preliminary plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission and Town Board for their consideration as to compliance with the Comprehensive Plan and these regulations, along with required supporting data.

PROTECTIVE COVENANTS

Contracts entered into between private parties or between private parties and public bodies pursuant to § 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

PUBLIC WAY

Any sidewalk, street, alley, highway, drainageway or other public thoroughfare.

REPLAT

The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.

RESERVE STRIP

A strip of land, also called a spite strip, intended by one private landowner to prevent by another owner access to the street. Such strips are not permitted under this chapter.

SHORELANDS

Those lands within the following distances: 1,000 feet from the high-water elevation of navigable lakes, ponds and flowages or 300 feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater (as provided in the County Zoning and Shoreland Ordinances).

SUBDIVIDER

Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, certified survey map or replat.

SUBDIVISION

The division of a lot, outlot, parcel, or tract of land by the owner thereof or his/her agent for the purpose of transfer of ownership or building development where the act of division creates five or more parcels or building sites of two acres or less in area, or where the act of division creates five or more parcels or building sites by successive division within a period of five years, whether done by the original owner or a successor owner.

SURETY BOND

A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.

TOWN

The Town of McMillan, Marathon County, Wisconsin.

WETLANDS

An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. [§ 23.32(1), Wis. Stats.]

WISCONSIN ADMINISTRATIVE CODE

The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by § 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

[1]:

Editor's Note: The original definition of "advisory agencies," which immediately preceded this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Article III. General Provisions

§ 446-6. General.

A.

Compliance. No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division or a replat as defined herein; no such subdivision, land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter and the following:^u

(1)

The provisions of Ch. 236 and § 82.18, Wis. Stats.

(2)

The rules of the Wisconsin Department of Safety and Professional Services, contained in Ch. SPS 385, Wis. Adm. Code, regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made, or any other agency as designated by the State of Wisconsin to enforce the regulations.

(3)

The rules of the Wisconsin Department of Transportation, contained in Ch. Trans 233, Wis. Adm. Code, for subdivisions which abut a state trunk highway or connecting street.

(4)

The rules of the Wisconsin Department of Natural Resources setting water quality standards, preventing and abating pollution and regulating development within floodland, wetland and shoreland areas.

(5)

Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Town Board.

(6)

All applicable Town and county ordinance and regulations, including zoning, sanitary, building, highway width map and official mapping ordinances.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(7)

The Town of McMillan Comprehensive Plan, or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the Town.

(8)

All applicable rules contained in the Wisconsin Administrative Code not listed in this subsection.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Jurisdiction. Jurisdiction of these regulations shall include all lands and water within the limits of the Town of McMillan. The provisions of this chapter, as they apply to divisions of tracts of land, shall not apply to:

(1)

Transfers of interests in land by will or pursuant to court order.

(2)

Leases for a term not to exceed 10 years, mortgages or easements.

(3)

The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws or ordinances.

(4)

Cemetery plats made under § 157.07, Wis. Stats.

(5)

Assessors' plats made under § 70.27, Wis. Stats., but such assessors' plats shall comply with §§ 236.15(1)(a) to (g) and (2) and 236.20(2)(a) to (k), Wis. Stats.

C.

Certified survey map. Any division of land other than a subdivision as defined in § 236.02(12), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in § 236.34, Wis. Stats.

D.

Building permits. The Town of McMillan shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, land division, replat or certified survey map originally submitted to the Town of McMillan on or after the effective date of this chapter until the applicant has complied with all of the provisions and requirements of this chapter.

E.

Applicability to condominiums. This chapter is expressly applicable to condominium developments within the Town's jurisdiction, pursuant to § 703.27(1), Wis. Stats. For purposes of this chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.

F.

Section line setback requirement.

(1)

No new building, structure, or other improvement shall be constructed, enlarged or placed within 33 feet of either side of any section line or quarter-section line in the Town, or within such additional distance on either side of any section line or quarter-section line as prescribed in the Marathon County Zoning Ordinance or other applicable zoning ordinance, except fences erected for agricultural purposes or required by chapter.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

No license, permit or approval for construction, placement, repair or improvement may be issued which would be in conflict with the provisions of this subsection.

(3)

The Town Plan Commission and the Town Board shall review future certified survey maps and proposed plats to assure conformity with the provisions of this subsection and may by ordinance reserve other areas for these purposes and/or may create a master Town street plan for all or part of the Town.

§ 446-7. Land suitability.

A.

Suitability. No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Town Board, in applying the

provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the Town Board may affirm, modify, or withdraw its determination of unsuitability.

B.

Existing flora. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.

C.

Unsuitability factors. The following are the only factors which the Town Board, upon recommendation of the Plan Commission, may consider under this section:

(1)

Inadequate drainage or floodlands. Included within this category may be lands not presently subject to flooding but which may flood in future years if the drainage basin further develops.

(2)

Lands made, altered, or filled. Lands made, altered, or filled with earth and non-earth materials.

(3)

Bedrock. Lands having bedrock within six feet of the natural undisturbed surface.

(4)

Percolation rate. Soils having a percolation rate slower than 60 minutes per inch shall be noted where a soil absorption sewage disposal system is contemplated.

(5)

Soil types. The following soil types as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service, which have very severe limitations, shall not be divided into building sites having an on-site soil absorption sewage disposal system, unless in conformance with the State of Wisconsin Sanitary Regulations:

Soil Name	Map Symbol	Field Sheet Symbol
Cable	Cba	
Cathro	Ch	
Fenwood	FeD	
Fenwood	FfE	
Fordum	Fh	

Soil Name	Map Symbol	Field Sheet Symbol
Freeon	FnC	
Magnor	MaB	
Marshfield	MfA	
Pits	Pg	
Rietbrook	RcB	
Rietbrook	ReB	
Seelyville	Se	
Sherry	ShA	
Sturgeon	St	
Vforthents	VoB	
Withee	WtB	

(6)

Land drained. Land drained by farm drainage tile or farm ditch systems unless an alternate drainage improvement is planned to serve the area.

(7)

Groundwater. Lands having evidence of groundwater within six feet of the surface.

D.

Additional considerations.

(1)

Areas of archaeological and/or historical interest shall be designated by the State Historical Society.

(2)

Areas of geological interest shall be designated by the State Geological and Natural History Survey.

(3)

Suitability of land for private sewerage systems shall be determined in accordance with Chapter SPS 383, Wisconsin Administrative Code.

§ 446-8. Condominium developments.

A.

Purpose.

(1)

The Town Board hereby finds that certain issues arise in condominium developments that require limited applicability of this chapter to condominium developments. The State Legislature has recognized that subdivision ordinances may apply to condominiums, but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.

(2)

The factor that makes this chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate parcels, with each property entity having different ownership and management. The Town determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.

(3)

Thus, the Town Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:

(a)

Additional population density.

(b)

Possibility of use of particular land in a manner unsuitable to the land's characteristics.

(c)

Additional demands upon Town area parks, recreation areas, utility facilities and schools.

(d)

Additional traffic and street use.

B.

Portions of chapter applicable to condominium developments. The following sections of this chapter shall apply to condominium developments:

(1)

Section 446-7, relating to land suitability and construction practices.

(2)

Sections 446-9 through 446-11, relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in § 446-15 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.

(3)

Section 446-13, relating to fees for review.

(4)

Article VI, relating to required improvements.

(5)

Article VII, relating to design standards for improvements.

(6)

Article VIII, relating to dedication requirements.

C.

This section shall not apply to the following condominiums:

(1)

Any condominium plat recorded prior to the effective date of this chapter.

(2)

Any conversion of a structure or structures in existence on the effective date of this chapter to a condominium after the effective date of this chapter.

Article IV. Plat Review and Approval

§ 446-9. Preliminary consultation.

Before filing a preliminary plat or certified survey map, the subdivider is encouraged to consult with the Town Plan Commission, the Town Land Division Administrator, and/or other professionals assisting the Town for advice regarding general subdivision requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Town Clerk. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the Comprehensive Plan, Comprehensive Plan components and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his/her development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

§ 446-10. Submission of preliminary plat.

A.

Procedure.

(1)

The developer or his/her agent shall make application to the Town of McMillan Land Division Administrator in accordance with the provisions of this chapter.

(2)

In accordance with § 236.10, Wis. Stats., approving agencies are the McMillan Town Board and the Marathon County Department of Conservation, Planning and Zoning.

(3)

Upon receipt from the county of the preliminary plat copies and application, the Town Clerk shall immediately transmit the materials to the Land Division Administrator, who shall immediately refer the plat to the Town Plan Commission and other appropriate commissions and staff or resource persons or agencies for review and recommendation.

(4)

The preliminary plat shall be prepared in accordance with this chapter, and the subdivider shall file copies of the plat and the application as required by this section with the Town Clerk at least 15 days prior to the meeting of the Plan Commission at which action is desired.

(5)

The Town Clerk shall submit a copy of the preliminary plat to the Plan Commission for review and written report of its recommendations and reactions to the proposed plat. (See § 446-15.)

B.

Public improvements, plans and specifications. Simultaneously with the filing of the preliminary plat or map, the owner shall file with the Town Clerk 12 complete sets of engineering reports, plans and specifications for the construction of any public improvements required by this chapter, specifically addressing sewer and water service feasibility, drainage facilities, traffic patterns, typical street cross-sections, erosion control plans, pavement design and other improvements necessary in the subdivision.

C.

Property owners' association; restrictive covenants. A draft of the legal instruments and rules for proposed property owners' associations, when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to § 236.293, Wis. Stats., and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the preliminary plat with the Town Clerk. (Note: Deed restrictions and restrictive covenants in subdivisions are private contractual agreements and are not enforceable by the Town.)

D.

Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this chapter.

E.

Supplementary data to be filed with preliminary plat. The following shall also be filed with the preliminary plat:

(1)

Use statement. A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population;

(2)

Zoning changes. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and

(3)

Area plan. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Plan Commission and/or Town Board may require that the subdivider submit a preliminary plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.

F.

Street plans and profiles. The subdivider shall provide street plans and profiles showing existing ground surface and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested.

G.

Soil testing. The subdivider shall provide a preliminary soils report, listing the types of soil in the proposed subdivision, their effect on the subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in § 446-7, the Town Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table.

H.

Objecting agencies time limit.

(1)

The objecting agencies shall, within 20 days of the date of receiving their copies of the preliminary plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Town.

(2)

If any objecting agency fails to act within 20 days, it shall be deemed to have no objections to the plat.

I.

Drafting standards. The subdivider shall submit to the Town Clerk and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes copies of a preliminary plat (or certified survey map) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one inch per 100 feet having two-foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land) and easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

§ 446-11. Preliminary plat review and approval.

A.

Plan Commission recommendation.

(1)

The Land Division Administrator, in transmitting a copy of the preliminary plat to all affected Town commissions or departments for their review and recommendations concerning matters within their jurisdiction, shall specify a time limit in which they must respond. Such time limit shall be such that the Plan Commission can make a recommendation encompassing its own and all other recommendations to the Town Board so the Town Board can act within 90 days of the date of the original filing of the plat with the County. The Plan Commission shall have principal responsibility for review of the plat for its conformance to this chapter and to all related ordinances and rules and adopted comprehensive plans.¹⁴

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

The Town Clerk shall schedule a public hearing on the preliminary plat before the Plan Commission. The Town Clerk shall give notice of the Plan Commission's review and public hearing on the preliminary plat by listing it as an agenda item in the Commission's meeting notice published in the official Town newspaper. The notice shall include the name of the applicant, the address of the property in question and the requested action. Property owners within 300 feet of the proposed land division shall receive written notice of the public hearing.

(3)

After review of the preliminary plat and negotiations with the subdivider on changes and the kind and extent of public improvements which will be required, the Plan Commission shall recommend to the Town Board disapproval, approval or conditional approval of the preliminary plat. [Note: Section 236.11(1)(a), Wis. Stats., states that extensions of time or a decision to hold a matter in abeyance may only be made by agreement between the subdivider and Town Board, not the Plan Commission.]

(4)

At its option, the Town Board may also refer proposed certified survey maps to the Plan Commission for an advisory recommendation.

B.

Board action. After receipt of the Plan Commission's recommendation, the Town Board shall, within 90 days of the date the plat was filed with the County Department of Conservation, Planning and Zoning, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Town Board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The Town Clerk shall communicate to the subdivider the action of the Town Board. If the plat is approved, the Town Clerk shall endorse it for the Town Board. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon, and, if approved conditionally or rejected, a letter setting forth the conditions of approval or the detailed reasons for rejection shall accompany the plat. Reasons for rejection shall be clear enough to direct

the subdivider how a new plat can receive approval. Copies of Town action shall also be filed with the county.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Conditional approval. Where a plat is approved conditionally, which conditions call for layout changes, the subdivider shall provide the County Department of Conservation, Planning and Zoning with corrected copies of the preliminary plat for county distribution to each approving and objecting authority for their files and possible further comment.

D.

Most restrictive conditions apply. If the approving authorities shall approve a preliminary plat subject to certain conditions and such conditions shall not be identical, then the more restrictive conditions shall apply. If the subdivider or any one of the approving authorities shall deem it unclear as to which conditions apply, the subdivider or the approving authority may request a joint meeting of the subdivider and the other approving authorities for the purpose of clarifying or, if need be, amending the conditions so as to clarify the applicable conditions.

E.

Effect of preliminary plat approval. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 36 months of preliminary plat approval and conforms substantially to the preliminary plat layout, the final plat shall be entitled to approval with respect to such layout. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Plan Commission and Town Board at the time of its submission.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Preliminary plat amendment. Should the subdivider desire to amend the preliminary plat as approved, he/she may resubmit the amended plat, which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

§ 446-12. Final plat review and approval.

A.

Town review.

(1)

Upon receipt from the county, the Town Clerk shall immediately refer the plat to the Town of McMillan Land Division Administrator, who in turn shall submit such plat to the approving authorities.

(2)

The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Town Attorney may require showing title or control in the applicant.

B.

Approving authorities. The Town Board, Marathon County, and each adjoining city or village in whose extraterritorial plat approval jurisdiction the subdivision lies are designated approving authorities.

C.

Objecting agencies. The Wisconsin Department of Administration and the Wisconsin Department of Safety and Professional Services shall be hereinafter referred to as objecting agencies. The Wisconsin Department of Natural Resources may be an advising agency where shorelands are involved.

D.

Time to file final plat. If the final plat is not submitted within 36 months of the date of approval of the preliminary plat, the approving authorities may refuse to approve the plat for cause. Extensions may be granted upon mutual agreement of all approving authorities. The final plat may, if permitted by the Town Board, constitute only that a portion of the approved preliminary plat which the subdivider proposes to record at that time. Approval of a final plat for only a portion of the preliminary plat shall extend approval for the remaining portion of the preliminary plat for 36 months from the date of such final approval.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Plan Commission review.

(1)

The Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat, any conditions of approval of the preliminary plat, this chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, conditional approval or rejection of the plat to the Town Board.

(2)

The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to Marathon County, which shall notify the Town. If an objecting agency fails to act within 20 days, it shall be deemed to have no objections to the plat.

(3)

The Plan Commission shall, within 40 days of the date of filing of the final plat with the Town Clerk, recommend approval, conditional approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the Town

Board. The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information.

F.

Board review and approval.

(1)

The Town Board shall, within 60 days of the date of filing the original final plat with the Town Clerk, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Town Board may not inscribe its approval on the final plat unless the Town Clerk certifies on the face of the plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within 20 days or, if filed, have been met.

(2)

The Town Board shall, when it determines to approve a final plat, give at least 10 days' prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.

(3)

Failure of the Town Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

(4)

After the final plat has been approved by the Town Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Town Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds cannot record the plat unless it is offered within 12 months after the date of the last approval of the plat and within 36 months after the first approval. The subdivider shall notify the county, which shall notify all approving agencies, if the plat is not recorded within said 36 months.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(5)

The subdivider shall file two copies of the final plat as recorded with the County Department of Conservation, Planning and Zoning for distribution to the Town Clerk.

G.

Partial platting. The final plat may, if permitted by the Town Board, constitute only that portion of the approved preliminary plat which the subdivider proposes to record at the time.

§ 446-13. Administrative fees.

A.

General. The subdivider shall pay the Town all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map.

B.

Engineering fee. The subdivider shall pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection with the plat or certified survey map, including inspections required by the Town. The subdivider shall pay a fee equal to the actual cost to the Town for such inspection as the Town Board deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town or any other governmental authority.

C.

Administrative fee. The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the plat or certified survey map. Included as such administrative fees shall be the cost of publication and meeting fees that are paid to Plan Commission members.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 446-14. Replat.

A.

Except as provided in § 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§ 236.40 through 236.44 of the Wisconsin Statutes. The subdivider or person wishing to replat shall then proceed using the procedures for preliminary and final plats.

B.

The Town Clerk shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat of lands within the Town is filed and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 300 feet of the exterior boundaries of the proposed replat.

C.

Where lots are more than double the minimum size required for the applicable zoning district, the Plan Commission may require that such lots be arranged so as to allow resubdivision of such parcels into normal lots in accordance with the provisions of this chapter.

D.

No lot with a subdivision may be divided creating a lot smaller than any adjacent or abutting lot.

Article V. Technical Requirements for Plats and Certified Survey Maps

§ 446-15. Technical requirements for preliminary plats.

A.

General. A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on Mylar or paper of good quality at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

(1)

Title under which the proposed subdivision is to be recorded.

(2)

Location of the proposed subdivision by government lot, quarter section, township, range, county and state.

(3)

Date, scale and North point.

(4)

Names and addresses of the owner, subdivider and land surveyor preparing the plat.

(5)

Entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Town Board, upon the Plan Commission's recommendation, may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and undue hardship would result from strict application thereof.

B.

Plat data. All preliminary plats shall show the following:

(1)

Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.

(2)

Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.

(3)

Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

(4)

Location and names of any adjacent subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.

(5)

Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established center line elevations.

(6)

Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.

(7)

Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.

(8)

Existing zoning on and adjacent to the proposed subdivision.

(9)

Contours within the exterior boundaries of the plat and extending to the center line of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than five feet. At least two permanent benchmarks shall be located in the immediate vicinity of the plat; the location of the benchmarks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the benchmarks clearly and completely described. Where, in the judgment of the Plan Commission, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

(10)

High-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom.

(11)

Water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom at the date of the survey.

(12)

Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where

such data is not available, two feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within 100 feet therefrom.

(13)

Soil types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service.

(14)

Location and results of soil boring tests within the exterior boundaries of the plat conducted in accordance with Ch. SPS 385 of the Wisconsin Administrative Code and delineation of areas with three-foot and six-foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service.

(15)

Location and results of percolation tests within the exterior boundaries of the plat conducted in accordance with Ch. SPS 385 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.

(16)

Location, width and names of all proposed streets and public rights-of-way such as alleys and easements.

(17)

Approximate dimensions of all lots together with proposed lot and block numbers. The area in square feet of each lot shall be provided.

(18)

Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.

(19)

Approximate radii of all curves.

(20)

Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.

(21)

Any proposed lake and stream improvement or relocation, and notice of application for approval by the Department of Natural Resources, when applicable.¹³

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

C.

Additional information.

(1)

Where the Plan Commission, Town Board or Town Engineer finds that it requires additional information relative to a particular problem presented by a proposed

development in order to review the preliminary plat, it shall have the authority to request in writing such information from the subdivider.

(2)

The Plan Commission and/or Town Board may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

§ 446-16. Technical requirements for final plats.

A.

General. A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of § 236.20, Wis. Stats., and this chapter.

B.

Additional information. The final plat shall show correctly on its face, in addition to the information required by § 236.20, Wis. Stats., the following:

(1)

Exact length and bearing of the center line of all streets.

(2)

Exact street width along the line of any obliquely intersecting street.

(3)

Exact location and description of streetlighting and lighting utility easements.

(4)

Railroad rights-of-way within and abutting the plat.

(5)

All lands reserved for future public acquisition or reserved for the common use of property owners within the plat.

(6)

Special restrictions required by the Town Board relating to access control along public ways or to the provision of planting strips.

C.

Deed restrictions. Restrictive covenants and deed registrations for the proposed subdivision shall be filed with the final plat.

D.

Property owners' association. The legal instruments creating a property owners' association for the ownership and/or maintenance of common lands in the subdivision shall be filed with the final plat.

E.

Survey accuracy.

(1)

Examination. The Town Board shall examine all final plats within the Town of McMillan and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.

(2)

Maximum error of closure. Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in 10,000, nor in azimuth, four seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure of the field measurements has been obtained; the survey of the exterior boundary shall be adjusted to form a closed geometric figure.

(3)

Street, block and lot dimensions. All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If checks disclose an error for any interior line of the plat greater than the ratio of one part in 5,000, or an error in measured angle greater than one minute of arc for any angle where the shorter side forming the angle is 300 feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than 300 feet in length, the error shall not exceed the value of one minute multiplied by the quotient of 300 divided by the length of the shorter side; however, such error shall not in any case exceed five minutes of arc.¹²¹

[1]:

Editor's Note: Original Subsection (e)(4), Plat location, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Surveying and monumenting. All final plats shall meet all the surveying and monumenting requirements of § 236.15, Wis. Stats.¹²²

[2]:

Editor's Note: Original Subsection (g), State plane coordinate system, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

G.

Certificates. All final plats shall provide all the certificates required by § 236.21, Wis. Stats., and in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

§ 446-17. Technical requirements for certified survey map land divisions; review and approval.

A.

Preliminary map required. Prior to the filing of a final certified survey map, subject to Subsection G following, a preliminary map shall be filed and approved. Such map shall show the information listed under Subsection H below and include a letter of application.

B.

Preapplication. It is recommended that prior to the filing of a preliminary certified survey map (CSM), a preapplication review be conducted in conformance with § **446-9**.

C.

Divisions of land regulated. Lands to be divided which do not constitute a subdivision are regulated by this section and include the division of land into not more than four parcels or building sites, any one of which is 35 acres or less in size, or when it is proposed to divide a block, a lot or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the boundaries of said block, lot or outlot. The certified survey map shall include all parcels of land 35 acres or less in size and may, at the owner's discretion, include any other parcels containing more than 35 acres. The subdivider shall prepare the certified survey map in accordance with the provisions of Marathon County Land Division Regulations and this chapter.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Filing and review. The Marathon County Department of Conservation, Planning and Zoning shall transmit copies of the map and the letter of application along with a cover letter to the McMillan Town Clerk, who shall provide the information to the Town of McMillan Land Division Administrator for distribution.

E.

Town Board action. The Town Board shall, within 90 days from the date of filing of the certified survey map, recommend approval, conditional approval, or rejection of the map. If the map is rejected, the reason shall be stated in the minutes of the meeting and a clear written statement forwarded to the subdivider indicating what must be done to gain approval. If the map is approved, the Town Board shall cause the Town Clerk to so certify on the face of the original map and return the original map to the subdivider.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

F.

Improvement agreement. All improvement requirements specified for a final subdivision plat, or the execution of an agreement and financial surety therefor, shall be met for a certified survey map as part of the approval process.

G.

Time to file final certified survey map. Where a preliminary certified survey map has been approved, all the provisions regarding length of time to file a final subdivision plat in conformance with said preliminary plat in this chapter shall apply as well to this section; however, the Town Board may waive the requirement of a separate preliminary CSM submittal and allow simultaneous filing of the preliminary and final maps in uncomplicated cases where a preliminary approval serves no useful purpose. A final CSM in conformance to an approved preliminary CSM is entitled to approval under the same terms as applied by this chapter to final subdivision plats.

H.

Certified survey map data. A map prepared by a land surveyor registered in Wisconsin shall be required for all certified survey maps. It shall comply in all respects with the requirements of § 236.34, Wis. Stats. The certified survey map shall also comply with the design standards and with the improvement requirements set forth in this chapter. The final map shall correctly show on its face, in addition to the information required by § 236.34, Wis. Stats., the following:

(1)

Date of map.

(2)

Graphic scale, location map and North point.

(3)

Name and address of the owner, subdivider and surveyor.

(4)

All existing buildings, watercourses, drainage ditches and other features pertinent to proper division, including topography if the land is undeveloped.

(5)

Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.

(6)

Additional building setback lines or yards required by the subdivider which are more restrictive than the zoning district in which the plat is located and are to be included in recorded covenants.

(7)

Location and results of percolation and soil boring tests shall be submitted on all maps to be served by on-site sanitary systems. Such tests shall be conducted in accordance with Ch. SPS 385, Wis. Adm. Code, and be taken at the location and depth at which the soil absorption waste disposal system is to be installed. The results shall be submitted on an accompanying document.

(8)

All lands reserved for future public acquisition or dedication.

(9)

Floodland and shoreland boundaries and the contour line lying at a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood of record within the exterior boundaries of the map or located within 100 feet therefrom.

(10)

Any additional information required by the approving authorities.

I.

State plane coordinate system. Where the map is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the Town, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinate of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the Town's control survey.

J.

Certificates. The surveyor shall certify on the face of the certified survey map that he/she has fully complied with all the provisions of this chapter. The Town Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.

K.

Street dedication. Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by § 236.21(2)(a) of the Wisconsin Statutes.

L.

Recordation.

(1)

The subdivider shall record the map with the Marathon County Register of Deeds within six months after the date of the last approval of the map and within 24 months after the first approval of the map. Failure to do so shall necessitate a new review and reapproval of the map by the Town Board.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Three additional copies of the final approved map shall be forwarded to the Town of McMillan. The volume and page number of the recording file shall be noted on the final approved map copies.

Article VI. Required Improvements

§ 446-18. Payments; general standards.

A.

Payment for improvements. The improvements prescribed in this chapter are required as a condition of approval of a land division. The required improvements described in this chapter shall be installed, furnished and financed at the sole expense of the subdivider. However, in the case of required improvements in a commercial or industrial area, the cost of such improvements may, at the sole discretion of the Town Board, be financed through special assessments.

B.

General standards. The following required improvements in this chapter shall be installed in accordance with the engineering standards and specifications which have been adopted by the Town Board. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices, approved prior to the start of construction by the Town Engineer.

§ 446-19. Required agreement providing for proper installation of improvements.

A.

Contract. Prior to installation of any required improvements and prior to the meeting at which the final plat is approved, the subdivider shall enter into a written contract with the Town requiring the subdivider to furnish and construct said improvements at his/her sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction details by the Town Engineer or other Board designee.

B.

Subdivider's rights of recovery. Said agreement shall also establish that the Town shall perform its inspections in a timely manner, may allow reduction in sureties in proportion to work inspected and tentatively accepted, and shall upon negotiation and mutual agreement with the subdivider contribute toward oversize or on-site improvements, or in lieu thereof shall assure the developer's rights of recovery of his/her expenditures for oversize or on-site improvements or for necessary off-site improvements, as shall be negotiated. A specific repayment schedule by the Town shall be included. Where data cannot be established, events related to repayment shall be identified, such as the levying and collecting of special assessments from other owners, issuance of revenue or general obligation bonds, or the receipt of certain taxes or user fees.

C.

Financial guarantees.

(1)

The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to 1 1/4 times the Town Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.

(2)

On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event, the amount of the deposit, letter of credit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond, deposit or letter of credit shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the

owner or subdivider. The Town Board, at its option, may extend the bond, deposit or letter of credit period for additional periods not to exceed two years each period.

(3)

The time for completion of the work and the several parts thereof shall be determined by the Town Board upon recommendation of the Town Engineer after consultation with the subdivider. The completion date shall be a component of the contract.

(4)

The subdivider shall pay the Town for all costs incurred by the Town for review and inspection of the subdivision. This would include review and preparation, at the Town Board's discretion, of plans and specifications by the Town Engineer and Attorney, as well as other costs of a similar nature.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 446-20. Required construction plans; Town review; inspections.

A.

Engineering reports, construction plans and specifications. As required by § 446-10, engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the preliminary plat. At the final plat stage, construction plans for the required improvements conforming in all respects with the standards of the Town Engineer and the ordinances of the Town shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his/her seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Engineer for his/her approval and for his/her estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the final plat with the Town Clerk, or as soon thereafter as practicable, copies of the construction plans and specifications, where applicable, shall be furnished for the following public improvements, with a copy sent to the appropriate sanitary district:

(1)

Street plans and profiles showing existing and proposed grades, elevations and cross-sections of required improvements.

(2)

Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.

(3)

Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross-sections, elevations and materials of required facilities.

(4)

Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.

(5)

Erosion and sedimentation control. Erosion and sedimentation control plans showing those structures or methods of construction required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation, including the following:

(a)

Trees. Such trees are to be protected and preserved during construction in accordance with sound conservation practices recommended by the U.S. Department of Agriculture.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(b)

Vegetation and mulching. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.

(c)

Construction area. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

(d)

Sediment basins. Sediment basins shall be installed and maintained at all drainageways to trap, remove and prevent sediment and debris from being washed outside the area being developed.

(6)

Planting plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.

(7)

Lot grading. Lot grading plans of proposed elevations of all lot corners shall be provided in mean sea level datum to ensure proper drainage.

(8)

Additional special plans or information as required by Town officials.

B.

Action by the Town Engineer. The Town Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this chapter and other pertinent Town ordinances and design standards recommended by the Town Engineer and approved by the Town Board. If the Town Engineer rejects the plans and specifications, he/she shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications for transmittal to the Town Board. The Town Board shall approve the plans and specifications before the improvements are installed and construction commenced.

C.

Construction and inspection.

(1)

Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Town Engineer upon receipt of all necessary permits and in accordance with the construction methods of this chapter. Building permits shall not be issued until all improvements required by this chapter are satisfactorily completed.

(2)

Construction of all improvements required by this chapter shall be completed within two years from the date of approval of the preliminary plat by the Town Board, unless good cause can be shown for the Town Board to grant an extension.

(3)

During the course of construction, the Town Engineer shall make such inspections as the Town Board deems necessary to ensure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Town for such inspections. This fee shall be the actual cost to the Town of inspectors, engineers and other parties necessary to ensure satisfactory work.

D.

Record plans. After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three copies of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the Town Engineer shall require. These plans shall be prepared on the original Mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion. Two copies shall be retained by the Town and one copy of such record plans shall be forwarded to the appropriate sanitary district.

E.

Building permit issuance. Building permits shall not be issued until the roads for a project are accepted by the Town Board.

F.

Town Engineer. Some provisions of this section refer to utilizing a Town Engineer. If a Town Engineer has not been appointed, the Town Board or Plan Commission may appoint a technical advisor, who shall make the recommendations and reports required by this section.

§ 446-21. Street improvements.

The subdivider shall construct streets, roads and alleys as outlined on the approved plans based on the requirements of this chapter.

A.

Street construction standards. The design and construction of all roads, streets and alleys in the Town shall fully comply with the requirements and specifications of §§ **446-30** and **446-31**.

B.

Grading.

(1)

With the submittal of the final plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of roads, streets and alleys shown on the plat.

(2)

Proposed grades will be reviewed by the Town Engineer for conformance with Town standards and good engineering practice. Street grades require the approval of the Town Board after receipt of the Town Engineer's recommendations.

(3)

After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots.

(4)

In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line.

(5)

The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation.

(6)

The Town Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to ensure that the established grade will be preserved.

(7)

Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.

C.

Street construction.

(1)

After (when applicable) sanitary sewer, storm sewer, water, and other necessary utilities have been installed, where required by the Town, the subdivider shall construct and dedicate, as part of the subdivision, streets and curbs and gutters. The subdivider shall surface roadways to the widths prescribed by §§ **446-30** and **446-31**. Construction shall be to Town standard specifications for street improvements.

(2)

The subdivider shall install base course material over the approved subgrade and then install finish surface paving in one or more courses in accordance with the approved plans and specifications. The subdivider shall assume the entire cost for such pavings within the subdivision, except in the case of dual facilities if required by the Town Board. The developer shall be responsible for payment of only one side of a required dual facility. The added cost for streets wider than 24 feet (measured exclusive of the shoulder in rural style cross-section) or 40 feet (in an urban style cross-section measured face-of-curb to face-of-curb) shall be the responsibility of the Town. In the event the subdivider wishes to install dual-lane facilities which may not be required by the Town, the total cost of such improvements shall be borne by the subdivider.

D.

Road shoulder, ditches or curb and gutter.

(1)

The subdivider shall install road shoulder material and the adjacent ditch or swale, both to finished grades, in accordance with the approved plans and specifications. The subdivider shall be responsible for installing all necessary culverts at intersections and, if required, mulch, sod or surface ditch inverts to prevent erosion and sedimentation.

(2)

The subdivider shall assume the entire cost of the road ditch within the subdivision, except that in dual roadways required by the local municipality, the inside or boulevard portion shall be borne by the Town.

E.

Completion of street and sidewalk construction.

(1)

Prior to any building permits being issued on lands adjacent to streets, all street construction shall be completed by the subdivider, approved by the Town Engineer and accepted by the Town Board.

(2)

The Town Board may issue a waiver of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in area or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the Town Board.

(3)

The subdivider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Town Board. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.

F.

Dedication and acceptance of a roadway.

(1)

The Town Board will accept a road from a developer or individual only after being inspected by a Town-appointed engineer or qualified individual. The road construction will be inspected to ensure full compliance with Chapter 440, Streets and Sidewalks, Article III, Construction of Highways.

(2)

Prior to acceptance of any road, all provisions of this chapter and Chapter 440, Streets and Sidewalks, Article III, Construction of Highways, must be met.

(3)

All costs and fees related to the inspections of the project must be paid in full prior to acceptance of the road.

(4)

Road maintenance will not be provided until the road is completed. Any work done by the Town to bring the road to standards prior to acceptance will be charged at the going Town equipment rates.

(5)

The subdivider or individual will provide a bond or other guarantee of payment to ensure the cost of blacktopping all dedicated roads will be available.

(6)

The subdivider or individual will provide a bond or other guarantee that payment of 1/2 the cost of building the roadway is available to guarantee the roadway for a period of two years from the date of the acceptance. These funds will be available to correct problem areas identified by the Town Highway Supervisor or the Engineer. These funds will also be used to repair any damage to roads caused by poor layout of the road, i.e., washouts or replacement or upgrade of culvert size.^u

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 446-22. Sidewalks.

The Town Board may require the subdivider to construct pedestrian paths on one side of all frontage streets and on one or both sides of all other streets within the subdivision. The location, type of material and construction of all pedestrian paths shall be in accordance with plans and standard specifications approved by the Town Board. The subdivider shall assume the entire cost of such installations within the subdivision unless additional agreements are reached between the subdivider and the Town Board.

§ 446-23. Sanitary sewerage system.

A.

There shall be provided a sanitary sewerage system in conformity with the master plan of sewers as approved by the Town Board and/or sanitary district, if applicable.

B.

The subdivider shall make adequate sewage disposal systems available to each lot within the subdivision, certified survey map parcel or land division.

C.

Subdivisions and certified survey map parcels in a designated public service area shall be served by public sewer facilities. The size, type, and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and specifications approved by the appropriate sanitary district.

D.

Land divisions created outside areas served by public sewer service may be served by private sewage disposal systems, if public sewer facilities are not available, and may include the use of mound systems or holding tanks. Private sewage disposal systems shall comply with the Wisconsin Administrative Code Ch. SPS 383, applicable Town ordinances, and the County Sanitation Ordinance.

E.

Public services.

(1)

When the Town Board determines that public services are available, the subdivider shall pay all the costs of all sanitary sewer work, including the bringing of the sanitary sewer from where it exists to the subdivision in question, as well as providing all sanitary sewer work within the subdivision. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the appropriate sanitary district serving the area.

(2)

When public sewer is available, the subdivider shall install sanitary sewers, manholes and laterals and other appurtenances so as to provide service to each parcel within the subdivision, if so required by the approved plans. The subdivider shall also provide trunk service to areas outside the subdivision which are tributary to the sewers within the subdivision. This shall be determined in the plans and specifications, which shall have the approval of the Town. The subdivider shall assume the full cost of the sanitary system within said subdivision, except that where a trunk line located within the development serving other areas creates an excess cost to the subdivider as determined by the Town, such excess costs shall be borne by the Town. In addition to the costs within the subdivision as defined above, the subdivider may be required to pay any pro rata connection charge to the trunk interceptor system or a pro rata charge for previously furnished adjacent sewers or laterals providing service to the subject subdivision, as determined by the Town.

§ 446-24. Water supply facilities (public service areas).

A.

The subdivider shall make adequate domestic water supplies available, and pay for such improvements, for each lot within the subdivision or land division in a designated public service area. The subdivider shall cause water supply and distribution facilities to

be installed in such manner as to make adequate water service available to each lot within the subdivision, if called for in the approved plans. If municipal water service is not available, the Town may require the subdivider to provide evidence of an adequate, safe water supply from on-site wells.

B.

The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision or land division. The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and specifications approved by the appropriate sanitary district. Water service laterals shall be provided to all lots served by public sewer.

C.

The subdivider shall assume the cost of installing all water mains, water laterals and water system appurtenances within the proposed subdivision except for the added cost of installing water mains greater than 12 inches in diameter, which shall be borne by the Town.

§ 446-25. Stormwater drainage facilities.

A.

Stormwater drainage. Pursuant to § **446-34**, the subdivider shall provide stormwater drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. Storm sewers are to be of adequate size and grade to hydraulically accommodate the ten-year storm; culverts shall be designed to accommodate the ten-year storm and shall be sized so that the twenty-five-year frequency storms do not cause flooding of the adjacent roadway. Upon the approval of the Town Engineer, stormwater swales and ditches may be sized for from twenty-five to one-hundred-year frequency storms, depending upon the estimated amount of damage that would be incurred by adjacent properties if flooding did occur. Storm drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all stormwater drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the Town Board, upon the recommendation of the Town Engineer. Storm sewers oversized to handle runoff from off-site properties will be installed by the subdivider; however, the cost of oversizing above a thirty-six-inch diameter storm sewer shall be paid by other users connecting to the system.

B.

Farm drainage tiles. The subdivider shall reconstruct, replace or re-route all farm drainage tiles encountered or damaged during subdivision construction to provide equal or better farm drainage. The subdivider shall provide a permanent record to the Town of such reconstruction, replacement, or re-routing.

C.

Shoreland drainage facilities. Drainage facilities in shoreland floodplain areas also fall under the jurisdiction of the county. Such shoreland drainage facilities shall, if required,

include water retention structures and settling basins so as to prevent erosion and sedimentation where such facilities discharge into streams or lakes. The design of all stormwater drains and sewers, invert and erosion control, and/or sodding of open channels and unpaved road ditches proposed to be constructed or other acceptable erosion methods shall be in accordance with the plans and standard specifications approved by the county.

§ 446-26. Other utilities.

A.

The subdivider shall cause gas, electric power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision, certified survey map or land division. All new electrical distribution television cables and telephone lines from which lots are individually served shall be underground unless the Town Board specifically allows overhead poles for the following reasons:¹

(1)

Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical; or

(2)

The lots to be served by said facilities can be served directly from existing overhead facilities.

[1]:

Editor's Note: Original Subsection (a), regarding installation of gas, electrical power and telephone facilities, which immediately preceded this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Associated equipment and facilities which are appurtenant to underground electric and communications systems, including but not limited to substations, pad-mounted transformers, pad-mounted sectionalizing switches and pedestal-mounted terminal boxes, may be located above ground. Any landscape screening plan required for such aboveground equipment shall be submitted to the affected utilities for approval.

C.

Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Town Board and such map shall be filed with the Town Clerk.

§ 446-27. Street signs and street lamps.

A.

Street signs. The subdivider shall install at the intersections of all streets proposed to be dedicated a street name sign of a design and installation specified by the Town.

B.

Street lamps. The Town may require the subdivider to install street lamps at street intersections.

C.

Traffic control devices. The subdivider shall pay all costs of installing traffic control devices at all intersections of all streets as required by the Town Engineer.

§ 446-28. Erosion control.

The Town Engineer shall, upon determining from a review of the plat that the soil, slope, vegetation and drainage characteristics of the site are such as to require substantial cutting, clearing, grading or other earth-moving operations in the development of the subdivision or to otherwise entail an erosion hazard, require the subdivider to provide soil erosion and sedimentation control measures to be included in the plans and specifications for the subdivision.

§ 446-29. Easements.

A.

Utility easements. The Town Board, on the recommendation of appropriate agencies serving the Town, shall require utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the intent of this chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.

B.

Drainage easements.

(1)

Where a subdivision is traversed by a watercourse, drainageway, channel or stream:

(a)

There shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this section; or

(b)

The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a stormwater easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this section.

(2)

Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases,

such watercourse shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than 30 feet. If, in the opinion of the Town Engineer, the easement will be for a major drainage swale, the easement shall be of sufficient width to contain a one-hundred-year frequency storm. If the drainage easement is located in an established floodway or flood-fringe district, the entire floodplain area shall be included within the drainage easement.

C.

Easement locations. Such easements shall be at least 12 feet wide, or wider where recommended by the Town Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission and Town Board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

Article VII. Design Standards

§ 446-30. General street design standards; definitions.

A.

Compliance with statutes. In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable Town regulations. In all cases where the requirements of this chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply.

B.

Definitions. The following definitions shall be applicable in this article:

ACCESS

The right of a road or driveway to open into an existing road.

APPROACH

That portion of a road extending 100 feet either side of a culvert or bridge.

BASE COURSE

The layer or layers of specified or selected material of designed thickness placed on a subbase or subgrade to support a surface course.

BRIDGE

A structure having a span of more than 20 feet from face to face of abutments or end bents, measured along the center line of the roadway, spanning a watercourse or other opening or obstruction.

CULVERT

Any structure not classified as a bridge which provides an opening under any roadway.

DRAINAGE

The grading, trenching, channeling, tiling, earth moving, or other procedures to cause or promote the gravitational flow of water without accumulation along, across, or away from a road.

ENGINEER

A Wisconsin licensed professional engineer with experience in road and bridge design and construction.

GRADE

The rate of ascent or descent of a road or any portion thereof.

HIGHWAY, STREET or ROAD

A general term denoting a public way for the purpose of vehicular travel, including the entire area within the right-of-way.

PAVEMENT STRUCTURE

The combination of subbase, base and surface courses placed on a subgrade to support the traffic load and distribute it to the roadbed.

PLANS

The approved plans, profiles, typical cross-sections, working drawings and supplemental drawings, or exact reproductions thereof, which show the location, character, dimensions and details of the work to be done.

RIGHT-OF-WAY

A general term denoting land, property or interest therein, usually in a strip acquired or dedicated for or devoted to use as a highway, street, or road.

ROAD AND/OR STREET CLASSIFICATION

The classification of highways, roads and streets according to their current or projected functional use and traffic count.

ROADBED

The graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

ROADWAY

That portion of a highway, street, or road within limits of construction.

SPECIFICATIONS

The body of directions, provisions, and requirements pertaining to the method or manner of performing that work, and the quantities and quality of materials to be utilized for construction.

SUBBASE

The layer or layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

SUBGRADE

The top surface of a roadbed upon which the pavement structure and shoulders are constructed.

SURFACE COURSE

One or more layers of a pavement structure designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion and the disintegrating effects of climate.

TRAVELED WAY

The portion of the roadway for the movement of vehicles exclusive of shoulders and auxiliary lanes.

C.

Dedication. The subdivider shall dedicate land and improve streets as provided in this article and § 446-21. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to official maps adopted by the Town Board. The subdivision, certified survey map parcel or land division shall be so designed as to provide each lot with satisfactory access to a public street or road.

D.

Compliance with comprehensive plans. In any new land division, the street layouts shall take into account the arrangement, width and location indicated on the Marathon County Jurisdictional Highway System Plan, official width map, comprehensive plan or component neighborhood plan, if any, of the Town or county. In areas for which detailed neighborhood plans have not been completed, the street layout shall conform to the functional classification of the various types of streets and shall be developed and located in proper relationship to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to further the public convenience and safety, to the proposed use of the land to be served by such streets, to existing or planned utilities and to the most advantageous development of adjoining areas.¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

Areas not covered by Plan. In areas not covered by a Town Comprehensive Plan, or Official Map, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.

F.

Street classifications. Streets/roads shall be classified as indicated below:

(1)

Arterial street arrangement. Arterial streets shall be platted with greater right-of-way widths and built with flatter horizontal and vertical curvature to accommodate their planned heavier traffic volumes, including possible school or public transit service; must be properly integrated and continuous with the existing and proposed system of arterials, and often will be restricted as to the location and amount of direct access to be provided to adjacent lands. In order to protect the traffic-carrying capacity and safety of arterials and to provide some shielding of adjacent residential uses from the adverse impacts of arterial traffic, whenever the proposed land division contains or is adjacent to an arterial highway or major collector street, design of the street and lot layout shall take into account:

(a)

In the case of nonresidential land uses, the proliferation of many high-volume access points shall be discouraged in favor of fewer planned openings that are shared or that provide service through an internal street system.

(b)

In the case of residential land uses with high vehicle density, the minimum access for nonresidential uses shall be observed or use made of the reversed frontage access approach, both with consideration for screening of the uses from arterial traffic impact.

(c)

In the case of residential uses with lower vehicle densities, direct access to the arterials shall be limited to the lowest-density residences with encouragement for deeper lots and greater setbacks, and all other residential uses shall be arranged on internal streets or ways, including reversed frontage shielded toward the arterial by a screening area consisting of earth mounds or plantings. The width of side lots and the depth of reversed lots with such screening shall be adequate to accommodate a screening area no less than 20 feet in width.

(2)

Collector street arrangement. Collector streets may be platted with somewhat greater width than the local streets they serve and somewhat flatter gradient, in order to convey the traffic from residential areas to the arterial street and highway system, and to accommodate possible school or public transit routes or bicycle/pedestrian paths. Collectors may also contain along their routes neighborhood or subcommunity retail, school or other institutional facilities. Although access is usually not restricted between a collector street and any abutting parcels, when the amount of traffic volume is expected to be sufficiently high, residential uses desirably should take their primary access from the feeder local streets rather than from the collector. Collectors should also be positioned with respect to topography to permit an efficient design for storm and sanitary sewers.

(3)

Local street arrangement. Local streets are primarily for the purpose of providing access to property and should, therefore, be designed to avoid as much as possible any through traffic or any fast movement of vehicles. The emphasis should instead be on the safety of pedestrians and bicyclists, fitting the local street and lot pattern to topography to achieve good building sites and to permit efficient water, storm and sanitary utility service. Achieving these criteria will involve emphasis on shorter streets and avoiding excessive width or straightness, both of which can contribute to high speeds and accidents.

(4)

Proposed streets. Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Town Board, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.

G.

Reserve strips. Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the Town under conditions approved by the Town Board.

H.

Alleys. Alleys may be provided in commercial and industrial districts for off-street loading and service access but shall not be approved in residential districts. Dead-end alleys shall not be approved and alleys shall not connect to a major thoroughfare or federal, state or county trunk highway.

I.

Continuation. Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Town Board, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts. Dead-end streets not over 500 feet in length will be approved when necessitated by the topography.

J.

Minor streets. Minor streets shall be so laid out so as to discourage their use by through traffic.

K.

Number of intersections. The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements, preferably not more than two. Wherever practicable, the distance between such intersections should not be less than 600 feet.

L.

Frontage roads. Where a subdivision abuts or contains an existing or proposed arterial highway, the Town Board may require a frontage road, non-access reservation along the rear of the property contiguous to such highway or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.

M.

Private streets. Private streets shall not be approved nor shall public improvements be approved for any private street; all streets shall be dedicated for public use.

N.

Visibility. Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable. As required by the Town Engineer, sufficient vision clearance triangles shall be provided at intersections.

O.

Tangents. A tangent at least 100 feet long shall be required between reverse curves on arterial and collector streets. Whenever there is a deflection angle of more than 10° in the alignment of a street, a curve shall be introduced with the required radius.

P.

Street grades.

(1)

Unless necessitated by exceptional topography subject to the approval of the Town Board, the maximum center line grade of any street or public way shall not exceed the following:

(a)

Arterial streets: 6%.

(b)

Collector streets: 8%.

(c)

Minor streets, alleys and frontage streets: 10%.

(d)

Pedestrianways: 12%, unless steps of acceptable design are provided.

(2)

The grade of any street shall in no case exceed 12% or be less than 1/2 of 1%.

(3)

Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography.

(4)

All changes on street grades shall be connected by vertical curves of sufficient length to provide adequate stopping sight distance over the vertical curve. As an absolute minimum, a length equivalent in feet to 30 times the algebraic difference in the rates of grade for collector streets and 1/2 this minimum for all local streets shall be used.

Q.

Half streets. Where an existing dedicated or platted half street is adjacent to the subdivision, the other half street shall be dedicated by the subdivider. The platting of half streets should be avoided where possible.

R.

Intersections.

(1)

The number of intersections along arterial streets and highways shall be minimized. Wherever practicable, the distance between such intersections shall not be less than 1,000 feet.

(2)

On all streets where sidewalks are required, ramps or openings to accommodate handicapped individuals or their vehicles shall be provided in accordance with § 66.0909, Wis. Stats.

(3)

Collector and local streets shall not necessarily continue across arterials or collector streets, but, if the center lines of such intersecting streets approach the arterial or collector streets from opposite sides within 125 feet of each other measured along the center line of the arterial or collector, the location shall be so adjusted so that the alignment across the arterial or collector street is continuous and jog is avoided.

(4)

Where the grade of any street at the approach of an intersection exceeds 7%, a leveling area shall be provided having not greater than 4% grade a distance of 50 feet measured from the nearest right-of-way line of the intersecting street.

(5)

Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide adequate sight distance.

(6)

Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.

(7)

Number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.

S.

Street names. New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Plan Commission. Proposed streets which are in alignment with or join an existing and named street shall normally bear the name of the existing street. Names of new streets shall not duplicate or be similar to existing street names. The use of the suffix "street," "avenue," "boulevard," "drive," "place," "court" or similar description shall not be sufficient distinction to constitute compliance with this subsection.

T.

Culs-de-sac.

(1)

Streets designed to have one end permanently closed shall terminate in a circular turnaround as prescribed in this chapter.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Culs-de-sac in residential developments shall normally be a maximum of 800 feet.

(3)

Culs-de-sac in commercial and/or industrial developments should be adequately designed to provide sufficient turnaround area for the type of vehicles expected to be making deliveries and/or pickups to the businesses or industries located on the cul-de-sac street.

(4)

Culs-de-sac in new residential developments shall have a one-hundred-ten-foot right-of-way (ROW) with a seventy-foot pavement diameter.

[Added 6-11-2012]

U.

Temporary termination of streets. Temporary termination of streets at the boundary of a subdivision intended to be extended at a later date and where five or more dwelling units have driveway access to such streets, or when the distance from the nearest intersection to the boundary of the subdivision is greater than 140 feet, shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth above, or by the construction of a temporary "T" turnaround within the street right-of-way as prescribed by the Town Engineer.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

V.

Limited-access highway and railroad right-of-way treatment. Whenever the proposed subdivision contains or is adjacent to a limited-access highway, arterial street or railroad right-of-way, the design shall provide the following treatment:

(1)

Subdivision lots. When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited-access highway or a railroad, a planting strip at least 30 feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs; the building of structures hereon prohibited."

(2)

Commercial and industrial districts. Commercial and industrial districts shall have provided, on each side of the limited-access highway, arterial street or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.

(3)

Streets parallel to a limited access highway. Streets parallel to a limited-access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of 250

feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

(4)

Minor streets. Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.

§ 446-31. Specifications for preparation, construction and dedication of streets and roads.

A.

Application procedures. Owners or developers of property seeking to create, construct, or reconstruct any street, highway or road for acceptance by the McMillan Town Board shall submit an application to the Town Board containing the following information:

(1)

A plan of the proposed highway, road or street improvement showing the location and design of the roadway. The plan shall be drawn to scale with sufficient dimensions and descriptions to allow the Town Board to determine the location of the proposed road, its relation to the property and other roads in the area, the slope of the land over which the road passes, proposed highway, road or street grades, drainage or ditch information, including proposed culvert sizes and locations, proposed depth of subbase and base courses and the nature of the proposed surface course, and a typical section of the road, and the date of expected construction.

(2)

The Town Plan Commission or its designee shall examine the application and the site of the proposed highway. After examination, the Commission may require additional information from the abutting property owners to determine if the proposed highway meets the requirements of this section and of applicable state statutes.

(3)

In the review of the highway application, the Town Plan Commission will consider:

(a)

Present and future traffic patterns in the area of the proposed highway;

(b)

Future use of land in the vicinity of the proposed highway;

(c)

The relationship of the proposed highway to existing highways;

(d)

The design safety of the proposed highway and of its intersections;

(e)

The adequacy of the drainage; and

(f)

Other matters that would affect the maintenance, drainage, safety, and traffic flows of the proposed highway and nearby highways.

(4)

The Town Plan Commission shall make a recommendation to the Town Board to accept, modify, or reject the application for a proposed highway, setting forth the reasons for its recommendation.

(5)

Upon receipt of the recommendation of the Town Plan Commission, the Town Board shall accept, accept with modifications, or reject the application for the proposed highway. If the application is rejected, the Town Board shall state reasons for the rejection consistent with this chapter.

(6)

Upon approval of an application for the construction or reconstruction of a proposed highway, road or street, the applicant shall proceed at the applicant's own expense to build the road in accordance with the approved plans and provisions of this section. The Town Board or its designee may monitor the construction work for compliance and shall have authority to order corrective measures to bring the work into compliance.

B.

General requirements.

(1)

Construction standards. All proposed streets, highways and alleys shall conform to the minimum right-of-way width as specified by this chapter, the Marathon County Jurisdictional Highway System Plan, the comprehensive plan, comprehensive plan component, neighborhood development plan or the official county highway width map. Design of the streets for a proposed subdivision should be such that every parcel is provided with adequate access to a public right-of-way or approved way. Their location and design shall consider their relationship to existing and planned streets, to topographic conditions, to natural features, and to public convenience and safety. All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction and its supplements and this chapter, whichever is more restrictive. The design requirements of this section and § **446-30** shall be applicable to all streets and roads that are to be dedicated to the Town, regardless of whether such streets or roads are part of a new subdivision or land division.

(2)

Project costs. All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any expense incurred by the Town in the preparation of plans and review and inspection of plans and construction.

(3)

Preliminary consultation. Prior to the design, preparation and construction of any roadway to be dedicated to the Town of McMillan, the applicant shall notify the Town Clerk. An on-site meeting will then be arranged to be attended by the Town Engineer or Town Board and the applicant. Plans must be provided in order for the Town Engineer or Town Board to check the design and the drainage.

(4)

Material slips. Copies of material slips for all materials furnished for the road construction projects shall be delivered to the Town before the Town approves the final construction.

(5)

Required inspections.

(a)

Although the Town Engineer or Town Board may conduct inspections as necessary at any state of construction, the Town Engineer or Town Board shall be contacted for required inspections after the following phases of construction:

[1]

Subbase grading.

[2]

Crushed aggregate base courses.

[3]

Bituminous surface course.

[4]

Shouldering.

[5]

Placement of erosion control measures (soil stabilization and stormwater retention/detention measures).

[6]

Prior to the covering of culverts, completion of drainage enhancement facilities, or during bridge construction.

[7]

At other times when the Town Board or its engineer determines significant construction activities are taking place.

(b)

Any deficiencies found by the Town Engineer or Town Board shall be corrected before proceeding to the next phase of construction.

(6)

Tests of materials. The Town reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.

(7)

Pavement samples. Samples of bituminous concrete may be required to be taken by the Town at the developer's expense during pavement construction operations for purposes of determining that the material meets specifications.

(8)

Town Board approval. The finished roadway shall meet with the approval of the Town Board since the Town will include this road work in its annual request for highway aid.

C.

Design standards. Proposed highways, roads, and streets shall be designed and constructed in accordance with current engineering practice as enumerated in the latest edition of the Wisconsin Department of Transportation's Facility Development Manual and Standard Specifications for Road and Bridge Construction and pursuant to this chapter. In addition, the proposed roads shall meet the minimum standards set out herein and in § 82.50, Wis. Stats.

(1)

All roads shall be centered in a right-of-way of not less than 66 feet in width, which right-of-way shall be deeded or dedicated to the Town.

(2)

The height of the roadbed in relation to the surrounding land shall be approved by the Town Board prior to commencement of construction.

(3)

The right-of-way shall be graded and finished to prevent soil erosion and provide adequate drainage for surface runoff from the roadway. Any ditches or channels required outside the right-of-way to carry roadway runoff shall be provided through the use of temporary (construction) drainage easements and permanent drainage easements on the property through which the road passes.

(4)

The Town Board shall have the authority to retain an engineer to assist the Town Board in the review of the applicant's plans for compliance with roadway grades, drainage, culvert size and placement, bridge requirements, pavement structure design and other requirements of this section. The Town Board shall also be authorized to inspect or retain an engineer to inspect the construction of any road. The Town will be responsible for the payment of engineering services to review the applicant's plans and construction review inspections when those engineering services are utilized to protect Town interests.

(5)

Engineering services required by the applicant to prepare plans and specifications for Town Board review and supervise any construction work shall all be paid by the applicant.

(6)

Applicants may request deviation from these design and construction standards in special cases where the strict application of the standards is impractical and where such deviation is not contrary to the public interest, safety and intent of this chapter.

D.

Construction standards. After completion of the underground utilities and approval thereof, the streets shall be constructed. Unless phasing of construction of improvements is approved by the Town Board or its designee, building permits shall not be issued prior to the installation of the street improvements and the approval of an individual lot grading plan that conforms to the guidelines of the master site grading plan, as determined by the Town Board or Town Engineer, or designee. All streets and highways constructed in the Town or to be dedicated to the Town shall fully comply with the following minimum construction standards; the Town Board reserves the right to modify these standards as needed:

(1)

Urban and rural arterial streets. Subject to approval by the Town Engineer, urban and rural arterial streets shall be designed in accordance with standard engineering practices based on state and/or county criteria. Minimum right-of-way to be dedicated shall be as shown in the Marathon County Jurisdictional Highway System Plan or other highway width map. Adequate sight distances for safe stopping as recommended by the County Highway Department should be provided on both vertical and horizontal curves. Alignment between control points should be as high a standard as is commensurate with topography, terrain, the design traffic and the reasonably obtainable right-of-way.

(2)

Local street construction standards.

(a)

Roads or streets with a twenty-year projected traffic count of zero to 400 vehicles per day [average daily traffic (ADT)] shall be constructed to meet or exceed the standards set by § 82.50(1)(d), Wis. Stats. The roadway shall consist of a twenty-two-foot pavement with a three-foot shoulder on each side for a twenty-eight-foot traveled way. [Amended 6-11-2012]

(b)

Roads or streets with a twenty-year projected traffic count of 401 to 1,000 vehicles per day (ADT) shall be constructed to meet or exceed the standards set by § 82.50(1)(e), Wis. Stats.

(c)

Roads or streets with a twenty-year projected traffic count of 1,001 to 2,400 vehicles per day (ADT) shall be constructed to meet or exceed the requirements of § 82.50(1)(f), Wis. Stats.

(d)

Roads or streets with a twenty-year projected traffic count in excess of 2,401 vehicles per day (ADT) shall be constructed to meet state highway requirements.

(e)

The Town Board shall approve the location, size, length, and elevation of any culvert to be installed within the roadway or required outside of the right-of-way to carry storm drainage. Storm drainage design shall be based on a ten-year storm for roads or streets of less than 1,000 ADT and a twenty-five-year storm for roads or streets with an ADT of 1,001 or higher.

(3)

Minimum center-line radius of curves. When a continuous street center line deflects at any one point by more than 5°, a horizontal curve shall be introduced having a radius of curvature on said center line of at least 300 feet (arterials) or at least 150 feet (collector or less). Reverse curves shall be separated by a tangent section of at least 200 feet (arterials) or 100 feet (collectors/locals). Adjustment in super-elevation design runoff may be needed for smooth riding, surface drainage and good appearance.

(4)

Roadway grading; ditches. Roads shall be graded to their full width in accordance with approved plans, plus an additional distance necessary to establish a back slope of 4:1. The roadway shall be compacted and graded to subgrade, using, where necessary, approved fill material which is in accordance with Wisconsin Department of Transportation standards. Roadside ditch bottom shall be a minimum of 30 inches below the finished roadway center-line elevation or as approved by the Town Board, upon the recommendation of the Town Engineer (if applicable). Debris may not be buried in the designated road right-of-way. Roadway ditches shall have a normal slope ratio of 3:1 ditch from the edge of the shoulder to the bottom of the ditch slope of 1% and 2:1 on the back slope.

[Amended 6-11-2012]

(5)

Roadway base thickness.

(a)

The roadbed shall be constructed to the elevations and grades shown on the approved plans. A normal minimum cross slope of two hundredths of a foot per foot shall be used on the subgrade, subbase, base and surface levels. Cut or fill ditch slopes and back slopes will be constructed at a one-foot vertical to four-foot horizontal measurement unless otherwise approved by the Town Board.

(b)

The subbase shall consist of 12 inches of breaker-run rock, four to six inches in size and graded at a two-percent slope on each side of the center line. Drain tile may be required at the discretion of the Town Engineer.

[Added 6-11-2012]

(c)

Residential and rural roads and streets shall have a minimum roadway base thickness of eight inches of compacted in-place crushed aggregate base course of gradation No. 2 in the top layer and gradations No. 1 and No. 2 in the lower level.

(d)

On commercial, arterial or other heavy-use roads, as determined by the Town Board, a base course of 10 inches compacted shall be constructed upon an inspected and approved subgrade, either well-graded crushed gravel on a state-approved pit with a maximum stone of 1 1/2 inches and no greater than 10% by weight passing a No. 200 sieve or No. 3 crushed rock approximately six inches in depth and one or more layers of fine aggregate, either three-fourths-inch crushed gravel, well graded with no greater than 10% passing a No. 200 sieve, or three-fourths-inch traffic-bound crushed rock. On all other roads, there shall be eight inches of compacted crushed aggregate installed in two layers. The lower layer shall be five inches in depth and consist of Gradation No. 1 and No. 2. The top layer shall be three inches in depth and consist of Gradation No. 2. [Amended 6-11-2012]

(e)

In the case of commercial, arterial or other heavy-use roads, the Town Board may, in the alternative to the above standards, have the Marathon County Highway Department and/or Town Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis.

(f)

In any case, the Town Board shall have the sole discretion in determining the use and construction classification to be adhered to.

(g)

In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections.

(6)

Roadway subgrade quality.

(a)

All subgrade material shall have a minimum California Bearing Ratio (CBR) of three. Subgrade material having a CBR less than three shall be removed and replaced with a suitable fill material, or the pavement must be designed to compensate for the soil conditions. The soil support CBR values selected for use by the designer should represent a minimum value for the soil to be used.

(b)

Stable and non-organic subbase material is required. All topsoil shall be first removed. In addition, all subsoils which have a high shrink-swell potential, low bearing capacity when wet, or are highly elastic shall be removed and used outside of the right-of-way. Where both subsoil and substratum have a high shrink-swell potential and low bearing capacity when wet, an underdrain system shall be installed to keep the water level five feet below the pavement surface. Unstable and organic material must be subcut, removed and replaced with a suitable granular or breaker-run material approved by the Town Engineer or Town Board.

(7)

Pavement thickness. Residential and rural roads shall have a minimum of three-inch-thick compacted bituminous concrete pavement, placed in two layers, a binder course 1 1/2 inches thick and a surface course of 1 1/2 inch. On commercial, arterial or other heavy-use roads, there shall be a minimum of four inches of bituminous concrete pavement, placed in two layers, a binder course two inches thick and a surface course two inches thick. In the case of commercial, arterial or other heavy-use roads, the Town Board may, in the alternative to the above standards, have the Marathon County Highway Department and/or Town Engineer provide specifications for paving such roads after researching the site(s) and conducting a soil analysis. In any case, the Town Board shall have the sole discretion in determining the use and construction classification to be adhered to.

(8)

Shoulder width. Shoulder width shall be a minimum of three feet wide on each side and wider when required by the town road standards as noted in § 82.50, Wis. Stats. [Amended 6-11-2012]

(9)

Shoulder thickness. Minimum of 2 1/2 inches of compacted in-place crushed aggregate base course gradation No. 2 or No. 3 over a minimum of eight inches of compacted in-place crushed aggregate base course.

(10)

Roadway culverts and bridges. Roadway culverts and bridges shall be constructed as directed by the Town Engineer or Town Board and sized utilizing the TR 55 standards listed in Chapter 13, Drainage, of the Facilities Development Manual of the Wisconsin Department of Transportation. All roadway culverts shall be provided with concrete or metal apron endwalls.

(11)

Driveway culverts. The culverts shall be placed in the ditch line at elevations that will assure proper drainage, and they shall be provided with concrete, metal or landscape timber endwalls if deemed necessary by the Town Board.

(12)

Topsoil, grass seed, fertilizer and mulch. All disturbed areas (ditches and back slopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing six inches of topsoil and good quality grass seed, fertilizer and mulch. Ditches along the roadway shall be protected by necessary erosion control materials such as hay bales, sod, erosion control mats, etc., as prescribed by the engineering design for the ditches as approved by the Town Engineer or Town Board. [Amended 6-11-2012]

(13)

Extra turn surface. The radius required shall be 25 feet for minor/local streets; heavy traffic/collector street radius shall follow Manual standards.

(14)

Drainage improvements. In the case of all new roads and streets, the Town Board may require that stormwater retention areas and storm sewers be constructed in order to provide for proper drainage.

(15)

Postconstruction traffic limited. No vehicular traffic shall be permitted on the pavement for a minimum period of between 24 and 72 hours following paving, as determined necessary by the Town Engineer or Town Board to protect the new pavement.

E.

Statutory requirements. The laying out of highways and roads shall be as provided in Chapters 82 and 86, Wis. Stats., except that in the case of subdivisions and certified survey maps, the provisions of § 236.29(2), Wis. Stats., shall apply.

F.

Bridge costs. As a basic rule, the cost of all bridges and/or culverts on roads within a subdivision will be paid entirely by the developer of the proposed road.

(1)

The Town Board may alter the general payment rules set out herein to provide that the owner/developer shall pay all of the cost of construction in excess of the cost not covered by construction aids.

(2)

It is the intent of this subsection to allow the Town Board to control construction of bridges and/or culverts in accordance with Town and state standards.

G.

Roadway elevations in floodplains. Elevations of roadways passing through floodplain areas shall be designed in the following manner:

(1)

Freeways shall be designed so they will not be overtopped by the one-hundred-year recurrence interval flood.

(2)

Arterial highways shall be designed so they will not be overtopped by the fifty-year recurrence interval flood.

(3)

Collectors and local streets shall be designed so they will not be overtopped by the ten-year recurrence interval flood.

H.

New and replacement bridges and culverts in floodplains.

(1)

All new and replacement bridges and culverts over perennial waterways, including pedestrian and other minor bridges, in addition to meeting other applicable requirements, shall be designed so as to accommodate the one-hundred-year recurrence interval flood event without raising the peak stage, either upstream or downstream, more than 0.1 foot above the peak stage for the one-hundred-year

recurrence interval flood, as established in any applicable FEMA Flood Insurance Study. However, larger permissible flood stage increases may be acceptable for reaches having topographic land use conditions which could accommodate the increased stage without creating additional flood damage potential upstream or downstream of the proposed structure. Such bridges and culverts shall be so designed and constructed as to facilitate the passage of ice floes and other debris.

(2)

All new and replacement bridges shall be constructed in accordance with all applicable state statutes and codes and may be submitted to the Department of Natural Resources for its advice.

I.

Final inspection.

(1)

Upon completion of the proposed highway, the Town Board or Town Engineer will proceed to make final inspection, accepting or rejecting the road, as the case may be. After all of the provisions of this chapter have been complied with, the roadway or easement will be inspected by the Town officials and, at that time, proof will be made by the presenting of waivers of liens or receipted bills that all work that has been done has been paid for or arrangements have been made for the payment through written instrument by the subdivider. If the road is rejected, corrections shall be made as recommended by the Town Board before final inspection can then be made again. If final acceptance is then made, the owner or owners shall turn over to the Town the deed of all land necessary for the road as previously mentioned.

(2)

The costs of any inspection of construction activities, materials or fees shall be billed back to the developer (applicant). Those costs if not paid by the developer (applicant) shall be placed on the tax roll as a special assessment on the property in the development.

§ 446-32. Block design standards.

A.

Length; arrangement. The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed 1,500 feet, nor have less than sufficient width to provide for two tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than 600 feet in length. A block shall be so designated as to provide two tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park, where it may have a single tier of lots.

B.

Pedestrian pathways. Pedestrian pathways, not less than 12 feet wide, may be required by the Town Board, upon the recommendation of the Plan Commission, through the center of a block more than 900 feet long, where deemed essential to provide

circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

§ 446-33. Lot design standards.

A.

Generally. The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development contemplated. All lots shall conform to the applicable zoning ordinance. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated, including considerations of solar access. The exception to county-prescribed lot sizes is that no new land division in the Town of McMillan shall create a lot smaller than two acres.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Size.

(1)

Access. Every lot shall front or abut on a public street for a distance of at least 50 feet. In unique hardship cases where it is impossible for a lot to abut a public street, a private way may be used for access purposes, provided a statement is included on the face of the plat indicating that the lot is served by a private way and that the Town or county has no responsibility for the maintenance of the private way. Any such private way is subject to applicable county zoning or platting ordinances, if any.

(2)

Area and dimensions of lots shall conform to the requirements of Ch. SPS 385, Wis. Adm. Code.

(3)

Area and dimension. Area and dimension of all lots shall conform to the requirements of the Zoning Ordinance. Those building sites not served by a public sanitary sewer system or other approved system shall be of sufficient size to permit the use of an on-site soil absorption sewage disposal system designed in accordance with the county sanitary ordinance.

(4)

Subdividing existing lot. No lot within a subdivision may be divided creating a lot smaller than any adjacent or abutting lots.

(5)

Farm land. Lots developed in a farm consolidation or other ownership switches must meet all lot size standards.

C.

Depth. Lots shall have a minimum average depth of 120 feet. Depth of lots or parcels reserved for commercial or industrial use shall be adequate to provide for screened, off-

street service and parking required by the use contemplated, and the area zoning regulations for such use. An extra 10 feet in depth and width may be required for said lots to be restricted for planting of shrubs and trees to screen said parking or to screen proposed industrial lots.

D.

Corner lots. Corner lots for residential use shall have extra width of 10 feet to permit building setback from both streets.

E.

Butt lots. Butt lots will be permitted by the Town Board only in exceptional cases. Permitted butt lots shall be platted at least five feet wider than the average width of interior lots in the block.

F.

Side lots. Side lot lines shall be substantially at right angles to or radial to abutting street lines. Lot lines shall follow Town boundary lines.

G.

Double and reversed frontage lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

H.

Natural features. In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

I.

Land remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.

J.

Building setback lines. Building setback lines shall conform to the requirements which may be established in Town Building or County Zoning Ordinances. Where not otherwise controlled by ordinance, setback lines appropriate to the location and type of development contemplated shall be established as may be required by the Town Board to achieve the purpose and intent of this chapter.

K.

Resubdivision of oversized lots. Whenever a tract is subdivided into parcels more than twice the minimum lot area required for the zoning district in which such parcel is located, the Town Board may require such parcels to be arranged and dimensioned so as to allow future resubdivision of any such parcels in accordance with the provisions of this chapter and in conformance with the County Zoning Ordinance.

L.

Meander line and water's edge. Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots or public dedication in any plat abutting a stream or lake. Consideration shall be given to the location of lot lines to facilitate shoreline protection and maintenance of intended water access.

§ 446-34. Drainage system.

A.

Drainage system required. As required by § 446-25, a drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A final plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this section which have been prepared by a registered professional engineer and approved by the Town Board, upon the recommendations of the Plan Commission and Town Engineer (if consulted).

B.

Drainage system plans.

(1)

The subdivider shall submit to the Town at the time of filing a preliminary plat a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:

(a)

Estimates of the quantity of stormwater entering the subdivision naturally from areas outside the subdivision.

(b)

Quantities of flow at each inlet or culvert.

(c)

Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.

(2)

A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.

(3)

The design criteria for storm drainage systems shall be based upon information provided by the Town Engineer.

(4)

Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the Town Board, upon the recommendation of the Town Engineer.

C.

Grading. The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:

(1)

The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.

(2)

Block grading shall be completed by one or more of the following methods:

(a)

A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.

(b)

Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.

(c)

Draining across rear or side lot lines may be permitted, provided that drainage onto adjoining properties is skillfully controlled.

D.

Drainage system requirements. The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection A of this section.

(1)

Street drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building stormwater drainage. No stormwater shall be permitted to be run into a sanitary sewer system within the proposed subdivision.

(2)

Off-street drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement of the Town to provide for the future maintenance of said system. Easements shall be a minimum of 20 feet, but the Town may require larger easements if more area is needed due to topography, size of watercourse, etc.

E.

Protection of drainage systems. The subdivider shall adequately protect all ditches to the satisfaction of the Town Board and Town Engineer. Ditches and open channels seeded, sodded or paved depending upon grades and soil types. (Generally, ditches or

channels with grades up to 1% shall be seeded; those with grades up to 4% shall be sodded, and those with grades over 4% shall be paved.)

§ 446-35. Nonresidential subdivisions.

A.

General.

(1)

If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the Town may require.

(2)

A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in the County Building Code. A nonresidential subdivision shall be subject to all the requirements of this chapter, as well as such additional standards required by the Town, and shall conform to the proposed land use standards established by any Town Comprehensive Plan or the County Zoning Code.

B.

Standards. In addition to the principles and standards in this chapter, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Town Board that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(1)

Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

(2)

Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

(3)

Special requirements may be imposed by the Town Board with respect to street, curb, gutter and sidewalk design and construction.

(4)

Special requirements may be imposed by the Town Board with respect to the installation of public utilities, including water, sewer and stormwater drainage.

(5)

Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.

(6)

Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

(7)

When a nonresidential development occurs adjacent to an existing Town roadway, the Town Board may demand that the subdivider pay all or part of the upgrade of the affected roadway. The Town Board and the Town Engineer will be responsible for determining necessary changes and ensuring that appropriate accommodations are implemented.

Article VIII. Park and Public Land Dedications

§ 446-36. Land dedication and reservation requirements.

A.

Dedication and reservation of lands. In order that adequate public lands and open space sites may be properly located and preserved as the Town develops, the following provisions are established:

(1)

Dedication of lands. Pursuant to § 236.29, Wis. Stats., when any plat is certified, signed, acknowledged and recorded as prescribed in said chapter of the statutes, every donation of land to the public intended for streets, alleys, ways, commons or other public uses as designated on said plat shall be deemed sufficient conveyance to vest the fee simple title with the public.

(2)

Reservation for future dedication. Where it is not practical or desirable in the Town of McMillan to require the dedication to the public of a road right-of-way or other site for public use at the time of plat approval, a reservation may be entered on the plat showing the future location of such a dedication, subject to these conditions:⁽¹⁾

(a)

The reservation is drawn and described on the plat with the same accuracy as required in this chapter for a dedication and the intended purpose of the reserved area after future dedication is shown, for example, "reserved for future dedication to public road purposes."

(b)

Provision is made for the acceptance of the reservation by the Town Board in the same manner as acceptance of a dedication.

(c)

Financial responsibility for installing required improvements at the time of dedication is established in the reservation acceptance resolution and recorded on the title of affected lots or outlots.

(d)

Authority to unilaterally require conversion of the reservation to a dedication is vested in the Town Board by the acceptance resolution. With Town Board approval in the acceptance resolution, such authority may also be vested in any one of the adjacent or underlying owners to the reserved area.

(e)

Setbacks and other yards for building and uses under the zoning ordinance treat the reservation as if already dedicated, which treatment shall also be recorded with the titles of affected lots and outlots.

(f)

Vacations of reservations shall be made in the same manner as provided in Subchapter VIII, Vacating and Altering Plats, of Ch. 236, Wis. Stats.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Reservation of lands for public acquisition. Where a plat embraces all or part of a site designated for public ownership and for which the subdivider is not obligated by this chapter or Chapter 236, Wis. Stats., to dedicate said lands to the public without compensation, the subdivider shall nevertheless make said lands a part of the plat design, assuming the lands will be purchased by the public, and reserve such lands for public purchase for a period of up to three years from the date of recording of the plat. To allow for the possibility that after the reservation period the public might not acquire the land, the plat design may be such that the reserved lands may be subdivided or otherwise put to a useful private purpose consistent with the layout in the balance of the plat.

C.

General design. In the design of a subdivision, land division, planned unit development or development project, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainageways and other public purposes. Such sites are to be shown on the preliminary plat and final plat and shall comply with the Town of McMillan Comprehensive Plan or component of said plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities.

§ 446-37. Central park and recreation area.

A.

Requirement. This section is intended to provide for the collection of fees to be used for the development and maintenance of a single central park and recreation area. This central park is located at the corner of Elm and Galvin (part of the SW 1/4 SW 1/4 of section 15, Town 26 North, Range 3 East, Town of McMillan, Marathon County, Wisconsin). The intent is to use these fees in the development and maintenance of a

single central park versus neighborhood park sites. Therefore, land will not be accepted in lieu of park fees.

B.

Calculation of lots. When an existing parcel is divided into two or more lots, the park fee will be paid on all additional lots created.

C.

Formula for setting the collection of park fees. The park fee amount will be set by the Town Board based upon the following formula prior to May 1 of each calendar year: 4% of the average of the last three years of equalized value of the land portion of residential Class A property as shown on statement of assessment.

$$\frac{\text{Assessed Value}}{\text{Number of Parcels}} = \text{Average assessed value}$$
$$\frac{\text{Average Assessed Value}}{\text{Assessment Ratio}} = \text{Average equalized value for calendar year}$$
$$\frac{\text{Sum Total of the Equalized Value for 3 Previous Years}}{\text{Average value} \times 0.04} = \text{Per-lot fee}$$

D.

Multifamily dwellings. The fee for multifamily dwellings equals the per-lot fee as defined by the above formula times the number of units.

E.

Disposition of funds. Monies received from the collection of park fees on lots created by subdivision of land shall be placed in a separate nonlapsing fund established for the development and maintenance of the central park and recreation area. All prior existing funds collected pursuant to prior Town requirements shall be transferred to the Central Park and Recreation Area Fund. Payment of park fees shall be made in connection with the execution of the subdivider agreement and received prior to authorization of the final plat.

F.

Disposition of prior lands dedicated to neighborhood parks. Prior land deeded to the Town for neighborhood parks may be sold at the Town Board's discretion if authorized by a Special Town Meeting and if in compliance with Chapter 236, Wis. Stats. Funds received shall be placed in the Central Park and Recreation Area Fund.

G.

Neighborhood parks. The developer, at his/her own expense, may with the approval of the Plan Commission develop a neighborhood park in the given subdivided area. Ownership, operation and maintenance of such a park will remain with the developer or the residents of the subdivision.

H.

Outstanding fees. Those bills remaining outstanding, including interest, for more than 90 days as of November 1 of any year shall become a lien against the real estate from which the developer or residents of the subdivision was provided and shall be placed on the tax roll as a delinquent special charge pursuant to § 66.0627, Wis. Stats.⁽¹⁾

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Article IX. Administration and Enforcement

§ 446-38. Variances and exceptions.

A.

Where, in the judgment of the Town Board, on the recommendation of the Plan Commission, it would be inappropriate to apply literally the provisions of this chapter because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission and Town Board in the analysis of the proposed project.

B.

The Plan Commission shall not recommend nor shall the Town Board grant variances or exceptions to the regulations of this chapter unless it shall make findings based upon the evidence presented to it in each specific case that:

(1)

The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

(2)

The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

(3)

Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.

C.

Any recommendations by the Plan Commission shall be transmitted to the Town Board. The Town Board, if it approves of the variance, shall do so by motion or resolution and instruct the Town Clerk to notify the Plan Commission and the subdivider.

D.

Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of this chapter or the desirable general development of the Town in accordance with any Town comprehensive plan or component thereof, this chapter, or County Zoning Code. A majority vote of the entire membership of the Town Board

shall be required to grant any modification of this chapter, and the reasons shall be entered in the minutes of the Board.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E.

The Town Board may waive the placing of monuments, required under § 236.15(1)(b), (c) and (d), Wis. Stats., for a reasonable, time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 446-39. Violations and penalties; appeals.

A.

Violations. It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes, and no person shall be issued a building permit by the Town authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

B.

Penalties.

(1)

Any person, firm or corporation which fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit no less than \$100 nor more than \$5,000 and the costs of prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense. In addition to the monetary penalties, the Town Board, or its agent, shall have the power to institute appropriate action for injunctive relief to prevent persons, firms or corporations from acting in violation of the provisions of this chapter.

(2)

Recordation improperly made has penalties provided in § 236.30, Wis. Stats.

(3)

Conveyance of lots in unrecorded plats has penalties provided for in § 236.31, Wis. Stats.

(4)

Monuments disturbed or not placed have penalties as provided for in § 236.32, Wis. Stats.

(5)

Assessor's plat made under § 70.27 of the Wisconsin Statutes may be ordered by the Town at the expense of the subdivider when a subdivision is created by successive divisions.¹¹

[1]:

Editor's Note: Original Subsection (c), Appeals, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 446-40. Appeals.

Any person aggrieved by an objection to a plat or a failure to approve a plat may first appeal therefrom, if the Town is involved, to the Town Board, following Chapter 68, Wis. Stats. If such appeal is not granted or if the objection or failure to approve is from some other authority, the persons aggrieved may appeal therefrom as provided in §§ 236.13(5) and 62.23(7)(e)10 to 15, Wis. Stats., to the court of record within 30 days of the above appeal decision or within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting authorities is arbitrary, unreasonable or discriminatory.

§ 446-41. Fees.

The subdivider shall pay to the Town Clerk all fees required by the Town Board and included in Chapter 72, Fees, for review of the preliminary plat, final plat or certified survey map. The purpose of said fees is to assist in defraying the cost of review by the Town. The roadway, construction, engineering, or inspection fee is applicable to any roadway being proposed for Town of McMillan acceptance with the boundaries of the Town of McMillan.

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 461. TRANSIENT MERCHANTS

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 7, Ch. 4, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 440.

§ 461-1. Registration required.

It shall be unlawful for any transient merchant to engage in direct sales within the Town of McMillan without being registered for that purpose as provided herein.

§ 461-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE ORGANIZATION

Includes any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.

CLERK

The Town Clerk of the Town of McMillan, or his/her designee.

MERCHANDISE

Includes personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.

PERMANENT MERCHANT

Any person who, for at least three months prior to the consideration of the application of this chapter to said merchant:

A.

Has continuously operated an established place of business in the Town of McMillan or City of Marshfield; or

B.

Has continuously resided in the Town of McMillan or City of Marshfield and now does business from his/her residence.

PERSON

All humans of any age or gender, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

TRANSIENT MERCHANT

Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. For purposes of this chapter, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitute the greatest part of value for the price received but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of the State of Wisconsin.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 11).

§ 461-3. Exemptions.

A.

The following shall be exempt from all provisions of this chapter:

(1)

Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

(2)

Any person selling merchandise at wholesale to dealers in such merchandise.

(3)

Any person selling Wisconsin agricultural products which the person has grown.

(4)

Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in his regular course of business.

(5)

Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person.

(6)

Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.

(7)

Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.

(8)

Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

(9)

Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Town Clerk proof that such charitable organization is registered under § 440.42, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 440.42, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this chapter.

(10)

Any person who claims to be a permanent merchant but against whom complaint has been made to the Town Clerk that such person is a transient merchant, provided that there is submitted to the Town Clerk proof that such person has leased for at least one year, or purchased, the premises from which he/she is conducting business for at least one year prior to the date complaint was made.

(11)

Any individual licensed by an examining board as defined in § 15.01(7), Wis. Stats.

(12)

Minors under 18 years of age who are residents of the school district(s) in the Town.

B.

This chapter does not apply to transient merchants while doing business at special events authorized by the Town Board.

§ 461-4. Registration procedure.

A.

Registration information. Applicants for registration must complete and return to the Town Clerk a registration form furnished by the Clerk which shall require the following information:

(1)

Name, permanent address and telephone number, and temporary address, if any.

(2)

Height, weight, color of hair and eyes, and date of birth.

(3)

Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold.

(4)

Temporary address and telephone number from which business will be conducted, if any.

(5)

Nature of business to be conducted and a brief description of the merchandise offered and any services offered.

(6)

Proposed method of delivery of merchandise, if applicable.

(7)

Make, model and license number of any vehicle to be used by the applicant in the conduct of his business.

(8)

Last cities, villages, and towns, not to exceed three, where the applicant conducted similar business just prior to making this registration.

(9)

Place where the applicant can be contacted for at least seven days after leaving this Town.

(10)

Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

B.

Identification and certification. Applicants shall present to the Town Clerk for examination:

(1)

A driver's license or some other proof of identity as may be reasonably required.

(2)

A state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.

(3)

A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law, such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for registration is made.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

Registration and investigation fee.

(1)

At the time of filing applications, a registration fee in accordance with the Town Board's current fee schedule shall be paid to the Town Clerk to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form and pay the fee prescribed in Chapter **72**, Fees.

(2)

The applicant shall sign a statement appointing the Town Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event that the applicant cannot, after reasonable effort, be served personally.

(3)

Upon payment of said fees and the signing of said statement, the Town Clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in § **461-5B** below.^[2]

[2]:

Editor's Note: The second original Subsection (c), License; fees, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 461-5. Investigation.

A.

Upon receipt of each application, the Town Clerk may refer it to the Sheriff's Department, or other appropriate law enforcement agency, for an investigation of the statements made in such registration, said investigation to be completed within seven days from the time of referral.

B.

The Town Clerk shall refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of § **461-4B** above.

§ 461-6. Appeals.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Town Board or, if none has been adopted, under the provisions of §§ 68.07 through 68.16, Wis. Stats.

§ 461-7. Prohibited practices; disclosure requirements.

A.

Prohibited practices.

(1)

A transient merchant shall be prohibited from calling at any dwelling or other place between the hours of 8:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2)

A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

(3)

No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(4)

No transient merchant shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.

(5)

No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

B.

Disclosure requirements.

(1)

After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of merchandise or services he offers to sell.

(2)

If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in § 423.203, Wis. Stats. The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.

(3)

If the transient merchant takes a sales order for the later delivery of merchandise, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

§ 461-8. Revocation of registration.

A.

Registration may be revoked by the Town Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

B.

Written notice of the hearing shall be served personally or pursuant to § **461-4C** on the registrant at least 72 hours prior to the time set for the hearing, such notice to contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Chapter 479. VEHICLES, ABANDONED

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as §§ 10-3-1 to 10-3-7 of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. **373**.

Vehicles and traffic — See Ch. **483**.

§ 479-1. Abandoned vehicles; definitions.

A.

Abandonment of vehicles prohibited. No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Town of McMillan for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Town of McMillan or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than 48 hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.

B.

Definitions. For purposes of this chapter, the following definitions shall be applicable:

STREET

Any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.

UNATTENDED

Unmoved from its location with no obvious sign of continuous human use.

VEHICLE

A motor vehicle, trailer, farm machinery, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin law.

C.

Presumptions. For purposes of this section, the following irrefutable presumptions shall apply:

(1)

A vehicle shall be presumed unattended if it is found in the same position 48 hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said 48 hours.

(2)

Any vehicle left unattended for more than for 48 hours on any public street or public ground or left unattended for more than 48 hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance, provided that the vehicle shall not be deemed abandoned under this subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by a law enforcement officer.

D.

Exceptions. This section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in compliance with applicable zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

§ 479-2. Removal and impoundment of vehicles.

Any vehicle in violation of this chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of § **479-3**.

§ 479-3. Removal, storage and reclaiming of abandoned vehicles.

A.

Applicability. The provisions of this section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles as defined in § **479-1**.

B.

Removal.

(1)

Any law enforcement officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Town of McMillan which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.

(2)

Upon removal of the vehicle, the law enforcement officer shall notify the Town Constable or his/her designee of the abandonment and of the location of the impounded vehicle.

C.

Storage and reclaimer. Any abandoned vehicle which is determined by the Town Constable or his/her designee to be abandoned shall be retained in storage for a period of 14 days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Town Constable or his/her designee determines an abandoned vehicle to have a value of less than \$100, or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage

for a period of seven days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be deemed as a having value in excess of \$100. Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges, and upon presentation of the vehicle title or other satisfactory evidence to the Town Constable or his/her designee to prove an ownership or secured party interest in said vehicle.

D.

Notice to owner or secured party. Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, of the following:

(1)

That the vehicle has been deemed abandoned and impounded by the Town of McMillan;

(2)

The "determined value" of the abandoned vehicle;

(3)

If the cost of towing and storage costs will exceed the determined value of the vehicle;

(4)

That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within 14 days of the date of notice, unless the vehicle has been determined to have a value less than \$100 or the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within seven days upon the payment of the aforesaid charges; and

(5)

That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicle may be reclaimed.

§ 479-4. Disposal of abandoned vehicles.

Any abandoned vehicle impounded by the Town which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this chapter may be sold by public auction sale or public sale calling for the receipt of sealed bids. A Class 1 notice, including the description of the vehicle, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale.

§ 479-5. Report of sale or disposal.

Within five days after the direct sale or disposal of a vehicle as provided for herein, the Town Constable or his/her designee shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the Town for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the Town shall be made available to any interested person or organization which makes a written request for such list to the Town of McMillan. The Town of McMillan may charge a reasonable fee for the list.

§ 479-6. Owner responsible for impoundment and disposal costs.

A.

The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the Town against the owner.

B.

Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.

§ 479-7. Effect on other provisions.

In the event of any conflict between this chapter and any other provisions of this Code, this chapter shall control.

Chapter 483. VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 10, Ch. 1, and § 10-2-2 of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. **440**.

Abandoned vehicles — See Ch. **479**.

Article I. General Provisions

§ 483-1. State traffic laws adopted.

A.

Statutes adopted. Except as otherwise specifically provided in this Code, the statutory provisions in Chapters 110, 194, and 340 through 349 of the Wisconsin Statutes,

describing and defining regulations with respect to vehicles and traffic, for which the penalty is a forfeiture only, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment or exclusively state charges, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the statutory regulations in Chapters 340 through 349 incorporated herein are intended to be made part of this chapter in order to secure to the extent legally practicable uniform statewide regulation of vehicle traffic on the highways, streets and alleys of the State of Wisconsin. Any person who shall, within the Town of McMillan, Marathon County, Wisconsin, violate any provisions of any statute incorporated herein by reference shall be deemed guilty of an offense under this section.

B.

Other state laws adopted. There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this chapter shall be as provided in Chapters 340 through 349 of the Wisconsin Statutes and the penalty for violation thereof shall be limited to a forfeiture as hereinafter provided in this chapter:

- 941.01 Negligent operation of vehicle
- 941.30 Recklessly endangering safety
- 943.11 Entry into locked vehicle
- 943.23 Operating vehicle without owner's consent
- 947.45 Drinking in motor vehicle on highway¹

[1]:

Editor's Note: Original Subsection (c), Statutes specifically incorporated by reference, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

C.

General references. General references in this chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

§ 483-2. State Administrative Code provisions adopted.

A.

Administrative regulations adopted. The following administrative rules and regulations adopted by the Secretary of the Wisconsin Department of Transportation and published in the Wisconsin Administrative Code, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made part of this chapter as if fully set forth herein:

Trans 146, Vehicle Registration and Fuel Trip Permits

Trans 150, Leasing of Vehicles by Private Carriers

Trans 304, Slow-Moving-Vehicle Emblem

Trans 305, Standards for Vehicle Equipment

Trans 326, Motor Carrier Safety Requirements for Transportation of Hazardous Materials

B.

Noncompliance prohibited. No person shall operate or allow to be operated on any highway, street or alley within the Town of McMillan a vehicle that is not in conformity with the requirements of Subsection A or the provisions of § 110.075 and Ch. 347, Wis. Stats., incorporated by reference in § 483-1 of this chapter.

C.

Safety checks.

(1)

Operators to submit to inspection. When directed to do so by any law enforcement officer, the operator of any motor vehicle shall stop and submit such vehicle to an inspection and such tests as are necessary to determine whether the vehicle meets the requirements of this section or that the vehicle's equipment is in proper adjustment or repair. No person, when operating a motor vehicle, shall fail to stop and submit such vehicle to inspection when directed to do so by any law enforcement officer as herein provided.

(2)

Authority of officer. Any law enforcement officer is hereby empowered whenever he or she shall have reason to believe that any provision of this section is being violated to order the operator of the vehicle to stop and to submit such vehicle to an inspection with respect to brakes, lights, turn signals, steering, horns and warning devices, glass, mirrors, exhaust systems, windshield wipers, tires and other items of equipment.

(3)

Vehicle to be removed from highway. Whenever, after inspection as provided by this section, a law enforcement officer determines that a vehicle is unsafe for operation, he or she may order it removed from the highway and not operated, except for purposes of removal and repair, until the vehicle has been repaired as directed in a repair order. Repair orders may be in the form prescribed by the Secretary of the Department of Transportation under § 110.075(5), Wis. Stats., and shall require the vehicle owner or operator to cause the repairs to be made and return evidence of compliance with the repair order to the department of the issuing officer within the time specified in the order.

D.

Penalty. Penalty for violation of any provision of this section, including the provisions of the Wisconsin Administrative Code incorporated herein by reference, shall be as provided in Article V, together with the costs of prosecution and applicable penalty assessment.

§ 483-3. Official traffic signs and control devices; prohibited signs, signals and markers.

A.

Duty to erect and install uniform traffic control devices. Whenever traffic regulations created by this chapter, including a State of Wisconsin traffic regulation adopted by reference in § **483-1**, require the erection of traffic control devices for enforcement, the Town Board shall procure, erect and maintain uniform traffic control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever state law grants discretion to local authorities in erecting or placement of a uniform traffic control device, devices shall be erected in such locations and in such a manner as, in the judgment of the Town Board, will carry out the purposes of this chapter and give adequate warning to users of the streets and highways of the Town of McMillan.

B.

Code numbers to be affixed to official traffic control devices. The Highway Supervisor shall cause to be placed on each official traffic control sign, guide board, mile post, signal or marker erected under Subsection **A** a code number assigned by the Wisconsin Department of Transportation and shall also place or direct the placing of code numbers on all existing official traffic control devices as required by the laws of the State of Wisconsin.

C.

Prohibited signs and markers in highways. No person other than the Highway Supervisor or an official authorized by this chapter to erect and maintain official traffic control devices or his or her designee shall place within the limits of any street or highway maintained by the Town any sign, signal, marker, mark or monument unless permission is first obtained from the Town Board or, where applicable, the State Department of Transportation. Any sign, signal, marker, mark or monument placed or maintained in violation of this subsection shall be subject to removal as provided in Subsection **D**.

D.

Removal of unofficial signs, markers, signals and traffic control devices. The Highway Supervisor, or his/her designee, may remove any sign, signal, marking or other device which is placed, maintained or displayed in violation of this chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marking or device shall be reported to the Town Board for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.

§ 483-4. Registration record of vehicle as evidence.

When any vehicle is found upon a street or highway in violation of any provision of this chapter regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner, as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation, or a comparable

authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of this chapter and specifically § **483-1** and shall be subject to the applicable forfeiture penalty, provided that the defenses defined and described in § 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

§ 483-5. Removal of traffic control device.

The removal and/or possession of any official Town of McMillan traffic control device is a violation of the law. The person or persons prosecuted for the removal and/or possession of official Town of McMillan traffic control devices will be subject to a fine of not less than \$100 and not more than \$500, plus all court costs and replacement costs, including but not limited to materials and labor. The responsible individual or individuals will be held liable for all injury and/or property damages resulting from the removal of said devices.

Article II. Street Traffic Regulations

§ 483-6. Operators to obey traffic control devices.

Every operator of a vehicle approaching an intersection at which an official traffic control device is erected in accordance with this chapter shall obey the direction of such official traffic control device as required by the Wisconsin Statutes incorporated by reference in § **483-1** of this chapter. Operators of vehicles approaching a stop sign shall stop before entering a highway as required by § 346.46, Wis. Stats. Operators approaching intersections at which a yield sign has been installed shall yield the right-of-way to other vehicles as required by § 346.18(6), Wis. Stats.

§ 483-7. Heavy traffic routes.

A.

Definition. For purposes of this section, "heavy traffic" shall be defined as:

(1)

All vehicles not operating completely on pneumatic tires; and

(2)

All vehicles or combination of vehicles, other than motor buses, designed or used for transporting property of any nature and having a gross weight of more than 15,000 pounds.

B.

Prohibited routes. Heavy traffic is prohibited from using any Town of McMillan street or highway not designated as a heavy traffic route. This section shall not act to prohibit heavy traffic from using a Town street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway, as long as

such activity is in compliance with current zoning. Furthermore, this section will not act to prohibit heavy traffic from using any Town streets over which are routed state or country trunk highways. When being driven to the site of any construction, repair or maintenance of roadway, electric, gas or water service, vehicles owned and operated by a public utility will be exempt from the provisions of this section.

C.

Administration. The Highway Supervisor and/or Town Chairperson, in cooperation with the Sheriff's Department, shall administer this section. Administration shall include:

(1)

Posting of signs. Appropriate signs shall be posted giving notice of this section and of the routes established herein.

(2)

Maps. Heavy traffic routes shall be shown on the Official Traffic Map.

D.

Construction equipment.

(1)

The Highway Supervisor and/or Town Chairperson may grant temporary permits to allow heavy construction equipment to use Town streets or highways not designated as heavy traffic routes. These permits may be granted only when use of a nondesignated route is necessary for the equipment to reach a construction site. No permit may be issued unless the person or corporation owning the equipment agrees to reimburse and hold the Town harmless for any damage done to the Town street by the equipment and/or any personal injury or property damage caused in part or in whole by the street damage.

(2)

Town-owned or operated equipment is specifically excluded from the provisions of this section.

E.

Liability. Any operator, corporation, owner or agent whose heavy traffic vehicle damages any Town streets or highways in violating this section shall be liable and required to pay the Town the cost of repair or replacement of the damage to the street or highway.

F.

Special or seasonal weight limits. The Highway Supervisor and/or Town Chairperson has the authority to impose special or seasonal weight limits on any road or highway, bridge or culvert maintained by the Town to prevent injury to the roadway for the safety of the users and shall be responsible for erecting the uniform traffic control devices giving notice thereof in accordance with the provisions of § 483-3.

G.

Heavy traffic routes designated. All streets and alleys within the Town are designated Class "B" highways subject to the weight limitations of § 348.16, Wis. Stats., except that

the following highways or parts thereof within the jurisdiction of the Town are hereby designated heavy traffic routes and are exempt from the Class "B" weight limitations:

(1)
State Highway 97.

(2)
County Highways C, E, T and AAA.

(3)
Galvin south of State Highway 97 (County Road Galvin).

§ 483-8. Through highways.

In the interest of the public safety and pursuant to § 349.07, Wis. Stats., the following streets or portions thereof set forth in this section are declared to be through highways, and all automobiles, trucks and other vehicles are required to come to a full and complete stop before entering or crossing the same. Traffic signs or signals giving notice thereof shall be erected by the Town of McMillan Highway Supervisor in accordance with § **483-3**.

A.
East-west. East-west through streets are:

(1)
McMillan, State Highway 97 to County Highway T.

(2)
McMillan, County Highway T through Day (Town of Day).

(3)
Mann, County Highway E through Lincoln (City of Marshfield).

(4)
Candlewood Court, from St. Joseph Avenue to St. Joseph Avenue.

(5)
County Highway C, State Highway 97 to County Highway E.

(6)
County Highway C, County Highway E west to Spencer.

B.
North-south. North-south through streets are:

(1)
State Highway 97.

(2)
County Highway T, McMillan to State Highway 97.

(3)
Drake, State Highway 97 to County Highway C.

(4)

Drake, County Highway E through Eau Pleine (Town of Eau Pleine).

(5)

Staad, McMillan to State Highway 97.

(6)

Staad, State Highway 97 to County Highway C.

(7)

Staad, County Highway E through Eau Pleine (Town of Eau Pleine).

(8)

Galvin, State Highway 97 to Elm.

(9)

Galvin, Elm to County Highway C.

(10)

Galvin, County Highway E through Eau Pleine (Town of Eau Pleine).

(11)

St. Joseph Avenue, McMillan to Mann.

(12)

County Highway E, State Highway 97 to County Highway C.

(13)

County Highway E, County Highway C to State Highway 153.

§ 483-9. Controlled intersections.

A.

Stop sign intersections.

Street Name (stop sign)	Intersecting Street Name
Birch (Both sides)	County Highway T
Birch	Felton
Birch (both sides)	Galvin
Candlewood	Edgewood
Candlewood Court North	St. Joseph Avenue
Candlewood Court South	St. Joseph Avenue
Deer Run	Edgewood
Deer Run	Mann
Drake (Both sides)	County Highway T
Edgewood	Candlewood

Street Name (stop sign)	Intersecting Street Name
Elm (both sides)	Galvin
Elm (both sides)	Staad
Fox	Elm
Fox Fire	Sugar Bush Lane
Fox Fire	Sugar Bush
Fir	Galvin
Galvin (both sides)	County Highway C
Galvin	East McMillan
Galvin	Elm
Kloehn	Marsh
Lincoln	Mann
Mann (Both sides)	County Highway T
Mann	Day (Town of Day controls)
Mann	Galvin
Mann	Staad
Marsh Lane	Marsh (east and west)
McMillan (Both sides)	County Highway T
Meadow	Mann
Meadow	St. Joseph Avenue
Park	St. Joseph Avenue
Penny	St. Joseph Avenue
Pine	Drake
Pine	Staad
Red Hawk	St. Joseph Avenue
Ruby	St. Joseph Avenue
St. Joseph Avenue	Mann
St. Joseph Avenue	McMillan Street
St. Joseph Avenue (south)	Park
Spruce	Galvin
Staad (Both sides)	County Highway T
Staad	East McMillan
Williams	Mann
Willow	Galvin
Young (north and south)	County Highway C

B.

Stop sign controlled intersections in McMillan.

Street Name (stop sign)	Intersects With	Street Name
Eau Pleine		Drake (Town of Eau Pleine controlled)
Eau Pleine		Staad (Town of Eau Pleine controlled)
Eau Pleine		Galvin (Town of Eau Pleine controlled)

C.

Four-way stops. The following intersections are designated as four-way stops:

(1)

Galvin and Elm.

§ 483-10. Speed limits.

A.

The statutory speed limit of 55 miles per hour on St. Joseph Avenue from the point where St. Joseph Avenue intersects McMillan Street north to the point where St. Joseph Avenue intersects Mann Road in the Town of McMillan, Marathon County, Wisconsin, is hereby reduced to and shall be 45 miles per hour.

B.

The statutory speed limit of 55 miles per hour on Mann Street (County Highway E) west to the City limits of Marshfield on Mann Street in the Town of McMillan, Marathon County, Wisconsin, is hereby reduced to and shall be 45 miles per hour.

C.

The statutory speed limit of 55 miles per hour on Ash Street (County Highway E) east to State Highway 97 is hereby reduced to and shall be 45 miles per hour.

Article III. Parking Regulations

§ 483-11. Restrictions on parking; posted limitations.

A.

Seventy-two-hour limitation. No person, firm or corporation shall park or leave standing any automobile, truck, tractor, trailer or vehicle of any description on any public streets or public parking lots in the Town of McMillan for a period of 48 or more consecutive hours in the same location at any time, except that where more restrictive parking limits have been established, the more restrictive limits shall apply. When any law enforcement officer shall find a vehicle standing upon a public street or parking lot in violation of the provisions of this section, he/she is authorized to move such a vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area where storage space is available, and in

such case the owner shall pay the costs of removing said vehicle and the storage fees on said vehicle before he/she may recover the possession thereof.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

B.

Posted limitations.

(1)

The Town Board may designate certain streets or portions of streets as no parking or no stopping or standing zones or as zones for parking by physically handicapped persons and may limit the hours in which the restrictions apply. The Town shall mark, by appropriate signs, each zone so designated in accordance with the provisions of § 349.13, Wis. Stats.

(2)

Except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no parking zone during hours when parking is prohibited except physicians on emergency calls or as permitted by state law or elsewhere by this Code.

(3)

The Town Board shall have the authority to restrict the turning or movement of heavy traffic and to impose special weight limitations on any highway or portions thereof which, because of the weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of any restrictions on heavy traffic movement or special weight limitations.

(4)

No prohibition, restriction or limitation on parking or restriction on movement or turning of heavy traffic and imposition of special weight limits is effective unless official traffic control devices have been placed or erected indicating the particular prohibition, restriction or limitation.

§ 483-12. Stopping or parking prohibited in certain specified places.

A.

Parking prohibited at all times. Except temporarily for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers or property and while the vehicle is attended by a licensed operator so that it may be moved promptly in case of an emergency or to avoid obstruction of traffic, no person shall at any time park or leave standing any vehicle:

(1)

Within an intersection.

(2)

On a crosswalk.¹³

[1]:

Editor's Note: Original Subsection (a)(3), regarding parking on a terrace or sidewalk area, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.

(4)

On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers.

(5)

Within a fire lane consisting of either the driveway between the front doors of a fire station and the public street or in such places properly designated and marked as fire lanes ordered by the Fire Chief.

(6)

Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.

(7)

In any place or manner so as to obstruct, block or impede traffic.

(8)

Within 10 feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign.

(9)

Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.

(10)

Upon any bridge.

(11)

Upon any street or highway within the Town any vehicle which faces a direction different from the direction of normal traffic flow for the lane of traffic in which said vehicle is stopped or standing.

(12)

Upon any terrace or sidewalk in the Town at any time.

(13)

In a loading zone.

(14)

Within four feet of the entrance to an alley, private road or driveway.

(15)

In any municipal park when said park is closed to the public.

(16)

Within 20 feet of the driveway entrance to the fire station.

(17)

In front of or within four feet of the overhead doorways to the fire station or any Town or municipal building.

B.

Parking in driveways. No person shall park or leave standing any motor vehicle in any private driveway without the permission of the owner or lessee of the property which such driveway is located, whether or not such driveway is posted to limit or restrict parking.

C.

Vehicles not to block private drive, alley or fire lane. No vehicle shall, at any time, be parked so as to unreasonably restrict the normal access to any private drive, alley or fire lane. Said access shall be deemed to be unreasonably restricted if any vehicle is parked within four feet of either side of said access. Upon discovery by a law enforcement officer or upon complaint by the owner of any such blocked drive, alley or fire lane, the law enforcement officer may order said vehicle towed from such position at the risk and expense of the owner of said vehicle.

D.

Parking vehicle for repair or to display for sale prohibited. No person shall stand or park a vehicle on any street, alley, public right-of-way or municipal parking lot in the Town for the purpose of repairing said vehicle or to display such vehicle for sale.

§ 483-13. Parking reserved for vehicles of disabled.

A.

When official traffic signs indicating such restriction have been erected in accordance with § **483-3** of this chapter, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction designating the vehicle as one used by a physically disabled person.

B.

No person shall at any time park any vehicle in any of the following areas or block said areas which are designated by a "Vehicle for Disabled" or "Handicapped Parking" sign unless a permit is obtained and shown on the vehicle:

(1)

One parking stall on the north and west side of the Fire Station.

(2)

One parking stall on the south side of the Town Hall.

(3)

One parking stall on the south and west side of the Town highway building.

(4)

Parking stall as designated by a legal sign by any business within the Town.

§ 483-14. Leaving keys in vehicle prohibited; parking vehicle with motor running.

A.

Leaving keys in vehicle. No person shall permit any motor vehicle to stand (remain unattended) on any street, alley or other public area, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gearshift or ignition of the vehicle is locked and the key for such lock is removed from the vehicle. Whenever any sheriff's officer shall find any vehicle standing with the key in the ignition in violation of this section, such officer is authorized to remove such key from the vehicle and deliver the key to the Sheriff's Department for safe custody.

B.

Parking vehicles with motor running. No person shall park or leave standing any motor vehicle with the motor or refrigerator unit running for more than 30 minutes within 300 feet of any residence within the Town between the hours of 10:00 p.m. and 7:00 a.m.

§ 483-15. Parking prohibited zones.

When signs are erected in any area giving notice thereof, no person shall park or leave standing any vehicle upon any of the following highways, streets, alleys or parts thereof, except temporarily for the purpose of and while actually engaged in receiving or discharging passengers:

A.

At any time on either side of Ash Street from the intersection of County Highway E to State Highway 97.

B.

At any time on either side of Galvin Street from 300 feet south of the entrance to the McMillan Fire Station to 300 feet north of the Municipal Garage.

C.

At any time on either side of Elm Street from the intersection of Galvin Street east 300 feet.

D.

On both sides of Mann Road from County Highway E to Lincoln Avenue.

§ 483-16. Parking during snow removal.

No person shall park, place or leave standing any automobile, truck or other vehicle on any street or public way for 24 hours after one hour from the time such area has received more than four inches of snow.

Article IV. Miscellaneous Provisions

§ 483-17. Unnecessary noise prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public or private area in the Town of McMillan.

§ 483-18. Unnecessary smoke prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any smoke, gases, or odors which are disagreeable, foul, or otherwise offensive which may tend to annoy or disturb another in or about any public or private area in the Town.

§ 483-19. Unnecessary acceleration and display of power prohibited.

It shall be unlawful for any person to operate any vehicle, including motorcycles, all-terrain vehicles and bicycles, in such a manner as to cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin or emit loud noises or to unnecessarily throw stones or gravel, nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would disturb the peace.

§ 483-20. Disorderly conduct with a motor vehicle.

A.

Conduct prohibited. No person shall, within the Town of McMillan, by or through the use of any motor vehicle, including but not limited to an automobile, truck, motorcycle, minibike or snowmobile, cause or provoke disorderly conduct with a motor vehicle, cause a disturbance or annoy one or more persons, or disturb or endanger the property or the safety of another's person or property.

B.

Definition. "Disorderly conduct with a motor vehicle" shall mean the engaging in violent, abusive, unreasonably loud conduct, or disturbing or endangering the property or the safety of another's person or property, or otherwise disorderly conduct, including but not limited to unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing the engine to backfire or causing the

vehicle, while commencing to move or in motion, to raise one or more wheels off the ground.

§ 483-21. Avoidance of traffic control device prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and travel across private property to avoid an official traffic control device, sign, or signal.

§ 483-22. Operation in restricted area prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and park, stop, or travel upon or across any public or private property, parking lot, driveway, or business service area for any purpose except the official conduct of business located on said property without the consent of the owner or lessee of the property. This section shall specifically include but not be limited to:

A.

Public park property;

B.

Cemetery properties;

C.

School district property;

D.

Medical facilities;

E.

Funeral homes;

F.

Service stations;

G.

Grocery stores;

H.

Restaurants;

I.

Financial institutions; and

J.

Other similar-type businesses with service driveways or drive-up or drive-through facilities.

§ 483-23. Stopping and parking prohibited.

It shall be unlawful for any person to stop or park a motor vehicle in any manner on any public or private property or parking lot contrary to a regulatory sign posted thereon which may permit parking by certain persons and limits, restricts, or prohibits parking as to other persons without the consent of the owner or lessee of the property. Any vehicle parked in violation of this section may be removed or towed by the property owner at the vehicle owner's expense.

§ 483-24. Use of compression brakes prohibited.

No person shall use compression brakes or operate a motor vehicle using brakes which are in any way activated or operated by the compression of the engine of any such motor vehicle or any unit or part thereof, unless such brakes are necessarily used in an emergency situation. The prohibition contained in this section shall not apply to fire, police, EMS and/or other emergency vehicles.

[1]:

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Article V. Enforcement and Penalties

§ 483-25. Violations and penalties.

The penalty for violation of any provision of this chapter shall be a forfeiture as hereafter provided, together with court costs and fees prescribed by § 814.63(1) and (2) or 814.65(1), Wis. Stats., the penalty assessment for moving traffic violations and the driver improvement surcharge imposed by §§ 757.05 and 346.655, Wis. Stats., where applicable. Payment of the judgment and applicable court costs, fees, assessments and surcharges may be suspended by the sentencing court for not more than 60 days. Any person 18 years of age or older who shall fail to pay the amount of the forfeiture, court costs, any penalty assessment or driver surcharge or other penalty imposed for violation of any provision of this chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding 90 days.

§ 483-26. Other sanctions.

A.

By court. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu of imprisonment.

B.

By municipality. No person who has been convicted of a violation of any provision of this chapter shall be issued a license or permit by the Town, except a dog license, until the

forfeiture imposed for such violation and any penalty assessment, court costs and fees or surcharge is paid.

§ 483-27. Forfeitures for violation of uniform moving traffic regulations.

Forfeitures for violations of any moving traffic regulation set forth in the Wisconsin Statutes adopted by reference in § **483-1** shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable Wisconsin Statute, including any variations or increases for subsequent offenses; provided, however, that this section shall not be construed to permit prosecution under this chapter for any offense described in Chapters 341 to 349, Wis. Stats., for which an imprisonment penalty or fine may be imposed upon the defendant.

§ 483-28. Forfeitures for parking violations.

A.

Forfeitures for uniform statewide parking, stopping and standing offenses. Minimum and maximum forfeiture for violation of nonmoving traffic violations adopted by reference in § **483-1** as described in Chapters 341 to 349, Wis. Stats., shall be as found in the current edition of the Revised Uniform State Traffic Deposit Schedule.

B.

Penalty for other parking violations. The forfeiture for violation of local parking regulations shall be \$10 to \$200.

§ 483-29. Other violations.

Any person who shall violate any provision of this chapter for which a penalty is not otherwise established by this chapter shall be subject to a forfeiture of not less than \$20 nor more than \$100.

Article VI. Off-Road Operation of Motor Vehicles

§ 483-30. Findings.

The unauthorized off-road operation of motor vehicles has resulted in:

A.

Serious damage to public and private lands, including damage or destruction of vegetation, animal life and improvement to the lands;

B.

The permanent scarring of land and an increase in both erosion and air pollution;

C.

Collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and

D.

A loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

§ 483-31. Definitions.

For purposes of this article, the terms below shall be defined as follows:

MOTOR VEHICLE

Any vehicle which is self-propelled and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, go-karts, motorized three-wheeled vehicles, all-terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. "Motor vehicle" shall not mean any airplane, railroad train, boat, wheelchair or bicycle. A vehicle which would otherwise be defined as a motor vehicle under this section shall not be so defined while it is being operated:

A.

Solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites, provided that such operation is by persons having legitimate business on such lands or sites.

B.

By or at the direction of public employees or utility company employees as part of their employment duties.

C.

By the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

OFF-ROAD

A.

Any location which:

(1)

Is not a paved or maintained public street or alley;

(2)

Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or

(3)

Is a private trail for use only by the owner or his/her permittees for recreational or other vehicular use.

B.

"Off-road" shall not include any creek bed, riverbed or lake; provided, however, that this subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creek bed, riverbed or lake.

OPERATION

The physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

UNAUTHORIZED

Without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.

§ 483-32. Unauthorized off-road operation prohibited.

A.

The unauthorized off-road operation of a motor vehicle is prohibited.

B.

Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in areas authorized by the Town Board, it shall be unlawful to operate any minibike, go-kart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the Town streets, alleys, parks, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the written consent of the owner before operation of such craft or vehicle on private lands.

Chapter 495. WASTE DISPOSAL FACILITIES

[HISTORY: Adopted by the Town Board of the Town of McMillan 3-13-2000 as Title 8, Ch. 3, of the 2000 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. **373**.

Property maintenance — See Ch. **400**.

§ 495-1. Definitions.

The following definitions shall be applicable in this chapter:

HAZARDOUS WASTE

Shall have the meaning set out in § 289.01(12), Wis. Stats.

HAZARDOUS WASTE DISPOSAL

Shall have the meaning set out in § 289.01(13), Wis. Stats.

HAZARDOUS WASTE FACILITY

Shall have the meaning set out in § 289.01(14), Wis. Stats.

HAZARDOUS WASTE STORAGE

Shall have the meaning set out in § 289.01(15), Wis. Stats.

SOLID WASTE

Shall have the definition provided in § 289.01(33), Wis. Stats.

SOLID WASTE DISPOSAL

Shall have the meaning set out in § 289.01(34), Wis. Stats.

SOLID WASTE FACILITY

Shall have the meaning set out in § 289.01(35), Wis. Stats.

§ 495-2. Supplemental provisions to Zoning Code.

A.

Generally. The provisions of this chapter shall be deemed supplemental to the provisions of the Marathon County Zoning Ordinance, which has heretofore been adopted by Marathon County, and which has heretofore been approved by the Town of McMillan, and further shall be supplemental to requirements of the state statutes and any applicable provisions of the Wisconsin Administrative Code. To the extent that provisions of this chapter shall be in conflict with the provisions of the Marathon County Zoning Ordinance, state statutes, or provisions of the Wisconsin Administrative Code, the stricter provision shall prevail.

B.

Prohibited uses. The following uses shall be prohibited in zoning districts designated "R" Recreation Districts:

(1)

Solid waste facilities.

(2)

Hazardous waste facilities.

C.

Special uses. The following are special uses permitted in "A1" Agricultural Districts and "A2" Agricultural Districts when the location and use shall have been approved in a special exception permit granted by the Town Board after public hearing. Such approval shall be granted or denied consistent with the public health, safety, comfort, convenience, aesthetics, and other aspects of the general welfare, taking into consideration safety and efficiency of use of streets, population density, surrounding uses, sanitation and drainage, contamination and other hazard, and shall be based upon such evidence as may be presented at public hearing tending to show the desirability of the specific proposed location or a specific use from the standpoint of the public interest considering such factors. Such use shall also be subject to specific conditions as set out herein and to such reasonable additional conditions as the Town Board may require.

(1)

Solid waste facility, provided that:

(a)

No portion of the solid waste facility shall be within 0.5 mile of the boundary of a residence district.

(b)

No portion of the solid waste facility shall be within 1,200 feet of any residence, residential water supply, or dairy operation water supply.

(c)

Solid waste disposal within a solid waste facility shall occur at a setback of not less than 800 feet from the nearest boundary of such facility.

(d)

Solid waste facility shall be immediately adjacent to the Town or county road surfaced with asphalt, macadam, or concrete to at least "Grade B" road weight limit standards.

(e)

No solid waste facility may be located within 1,000 feet of any shoreline or floodplain.

(f)

All operations at a solid waste facility shall be screened from adjoining roadways, residences, residential property, and recreation or park land by a double row of evergreen trees or shrubbery not less than six feet in height.

(g)

All roadways within a solid waste facility shall be surfaced so as to prevent tracking of mud, silt or topsoil from said facility onto adjoining roadways.

(h)

Solid waste disposal permit, if any, has been obtained and required fees therefor have been paid.

(2)

Hazardous waste facility, provided that:

(a)

No portion of the hazardous waste facility shall be within 0.5 mile of the boundary of a residence district.

(b)

No portion of the hazardous waste facility shall be within 1,500 feet of any residence, residential water supply, or dairy operation water supply.

(c)

Hazardous waste disposal within a hazardous waste facility shall occur at a setback of not less than 1,000 feet from the nearest boundary of the facility.

(d)

Hazardous waste facility shall be immediately adjacent to the Town or county road surfaced with asphalt, macadam, or concrete to at least "Grade B" road weight limit standards.

(e)

No hazardous waste facility may be located within 500 feet of any shoreline or floodplain.

(f)

All portions of the hazardous waste disposal facility upon which hazardous waste is being stored or is being disposed, or upon which or in which hazardous waste has been stored, shall be enclosed by a fence of not less than six feet in height composed of galvanized or aluminum coated woven wire of size not less than 10 gauge to be installed on three-inch galvanized OD post on ten-foot centers set in concrete footings of a diameter not less than six inches to a depth into the ground of not less than 2 1/2 feet. Said fence shall have a gate which shall be locked and closed at all times when said facility is not open for receipt of hazardous materials.

(g)

All operations at a hazardous waste facility shall be screened from adjoining roadways, residences, residential property, and recreation or park land by a double row of evergreen trees or shrubbery, not less than six feet in height.

(h)

All roadways within a hazardous waste facility shall be surfaced so as to prevent tracking of mud, silt, or topsoil from said facility onto adjoining roadway.

(i)

Hazardous waste storage or disposal permit, if any, has been obtained and required fees therefor have been paid.

§ 495-3. Permit procedure.

A.

Purpose. The Town Board of the Town of McMillan has determined that the siting and operation of a solid waste disposal facility, landfill, dump or hazardous waste disposal facility within the Town limits has aspects which are particularly within the interest of the Town, in addition to those interests which may be statewide.

B.

Permit required. No individual, partnership, joint venture, corporation, or governmental agency shall create, expand, operate, maintain or continue a sanitary landfill, dump, or solid waste disposal facility on any land in the Town of McMillan without first having secured a permit therefor from the Town Board. No person, partnership, joint venture, corporation, or governmental agency shall expand, create, operate, or maintain a hazardous waste storage facility or hazardous waste disposal facility within the Town of McMillan without first having secured a permit therefor from the Town Board.

C.

Solid waste disposal permit.

(1)

Application for a solid waste disposal permit shall be made in writing to the Town Clerk of the Town of McMillan accompanied by a nonrefundable application fee as provided in Chapter 72, Fees.¹¹

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

(2)

Application shall be made on the form provided by the Town Clerk.

(3)

The application shall be accompanied by or supplemented by any feasibility or suitability studies on the proposed site, a complete description and diagrams to the extent available of the design and construction of the proposed facility and the plan of operation and maintenance of the proposed facility, and copies of all additional information as it becomes available required under Ch. 289, Wis. Stats., and applicable portions of the Wisconsin Administrative Code.

(4)

Upon receipt of the properly completed application and fee, the Clerk shall notify the Town Board of receipt of an application and shall schedule action for acceptance of the application as sufficient on the notice for the next regularly scheduled Town meeting.

(5)

The Town Board shall, upon acceptance of the application at the regular meeting of the Town Board, schedule public hearing on the application, which hearing may coincide with the hearing on any required Town zoning permits, not less than 28 nor more than 62 days after the meeting at which the application is formally accepted by the Town Board. Notice of the hearing on application shall be published as notice for any Town meeting, and, in addition, the Town Clerk shall notify by regular mail all owners of real property within one mile of the nearest boundary of the proposed site.

(6)

Applicant or its representative shall appear at the scheduled hearing on permit, and all residents of the Town or other interested persons shall be given an opportunity to be heard at said hearing. Upon showing compliance with the applicable zoning regulations, and upon showing satisfactory to the Town Board, based on the evidence presented at the hearing, that the facility will be constructed and operated in a manner which will not pollute surface or groundwater, and that the facility and its construction, operation or maintenance will not unreasonably interfere with the existing permitted uses or reasonably anticipated permitted uses of the surrounding property, and upon showing that the applicant is financially, and by training and experience, able and willing to comply with the applicable state laws, administrative rules and municipal ordinances, the Board may, in its discretion, and within 30 days of the date of hearing on application, grant a permit for operation of a solid waste facility.¹²

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

D.

Hazardous waste storage facility and hazardous waste disposal facility permits.

(1)

Application for hazardous waste storage facility and hazardous waste disposal facility permits shall be made in writing to a Town Clerk of the Town of McMillan accompanied by a nonrefundable application fee as provided in Chapter 72, Fees.^[3]

[3]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Application shall be made on the form provided by the Town Clerk.

(3)

The application shall be accompanied by or supplemented by any feasibility or suitability studies on the proposed site, a complete description and diagrams to the extent available of the design and construction of the proposed facility and the plan of operation and maintenance of the proposed facility, and copies of all additional information as it becomes available required under Ch. 289, Wis. Stats.^[4]

[4]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(4)

Upon receipt of the properly completed application and fee, the Clerk shall notify the Town Board of receipt of an application and shall schedule action for acceptance of the application as sufficient on the notice for the next regularly scheduled Town meeting.

(5)

The Town Board shall, upon acceptance of the application at a regular meeting of the Town Board, scheduled public hearing on the application at a regular Town Board meeting, which hearing may coincide with the hearing on any required Town zoning permits, not less than 28 nor more than 62 days after the meeting at which the application is formally accepted by the Town Board. Notice of the hearing on application shall be published as notice for any Town meeting, and, in addition, the Town Clerk shall notify by regular mail all owners of real property within 1 1/2 miles of the nearest boundary of the proposed site.

(6)

Applicant or its representative shall appear at the scheduled hearing on permit, and all residents of the Town and other interested persons shall be given an opportunity to be heard at said hearing. Upon showing compliance with the applicable zoning regulations, and upon showing satisfactory to the Town Board, based on the evidence presented at the hearing, that the facility will be constructed and operated in a manner which will not pollute surface or ground water, and that the facility and its construction, operation or maintenance will not unreasonably interfere with the existing permitted uses or reasonably anticipated permitted uses of the surrounding property, and upon a showing that the applicant is financially, and by training and experience, able and willing to comply with all applicable state laws, administrative rules and municipal ordinances, the

Board may, in its discretion and within 30 days of the date of hearing on application, grant a permit for operation of a hazardous waste storage facility and hazardous waste disposal facility.

E.

Permits effective for one year. Permits under this section shall be effective for a period of one year from the date of granting and may be renewed annually at a regular monthly meeting of the Town Board upon application, publication of a Class 1 notice, and filing of proof satisfactory to the Town Board that fees required under this chapter have been paid.

§ 495-4. Fees.

A.

Determination of fee.

(1)

Solid waste disposal fee. There is levied upon the privilege of operation of a solid waste disposal facility a local tax per cubic yard of waste deposited in said facility, as provided in Chapter 72, Fees, over and above any tax or fees required by the State of Wisconsin or any other governmental body or agency. Permittee shall keep records and equipment on the site to determine the amount of solid waste deposited on the site and shall make these records available for inspection by the Town Board, Town Clerk, or its designees as required to verify payment of the fees. The fee shall be paid over to the Town at least quarterly.^[1]

[1]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(2)

Hazardous waste storage facility and hazardous waste disposal facility fee. There shall be levied upon the privilege of operation of a hazardous waste disposal facility or hazardous waste storage facility a local tax per cubic yard of hazardous materials deposited in the facility, as provided in Chapter 72, Fees, over and above any tax or fees required by the State of Wisconsin or any other governmental body or agency. Permittee shall keep records of the amount of hazardous waste and refuse disposed of on the sit, and shall make these records available for inspection by the Town Board, Town Clerk, or its designee as required to verify payments. The fee shall be paid over to the Town at least quarterly.^[2]

[2]:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(3)

Failure to file. If as a result of inadequate recordkeeping, or other failure or act of the permittee, the Town Clerk is unable to determine the amount of fee due and payable under this section, the fee may be calculated by a determination of the volume of the facility which has been filled, with the fee to be computed upon 100% of that volume, without regard to any soil replacement, cap, compacting, settling or other factors.

B.

Use of fees.

(1)

One-half of the fees under this section shall become a part of the general revenue of the Town to be used for general Town and Town highway purposes.

(2)

The balance of the fees shall be deposited to a segregated interest-bearing fund to be used as follows:

(a)

During the life of said landfill, to the extent other fees or resources are not available, to pay the cost of inspection, verification of compliance with Town ordinances, and such testing as in the opinion of the Town Board is reasonably necessary to verify the safety of the operation of the facility and the payment of fees required under this section.

(b)

To the extent other funds or resources are insufficient, any funds remaining at the time of closure of the landfill shall be available for use to complete closure requirements as imposed by the Department of Natural Resources or its successor, or by the State Legislature if the permittee does not complete said requirements.

(c)

Any funds remaining thereafter shall be held in the segregated account for a period of 30 years as a fund to be available for claims for damages to property owners or occupants who have been damaged by the construction or operation or inadequate closure of the facility. Said sum shall not be used for this purpose so long as the occupant or its insurer or surety has sufficient funds to pay such claim, nor so long as funds are available through any state or other governmental agency for such purposes, and such funds shall be available for payment to a claimant only upon judgment or order of a court determining causation of the damages and the amount of damages suffered. By creation of this fund, the Town assumes no liability beyond the balance retained in the fund for these purposes.

(3)

As a condition of the granting or renewal of any permit pursuant to this chapter, all persons residing in the Town of McMillan shall be allowed to use, free of any charge other than the privilege tax referred to in this section, any solid waste disposal facility or hazardous waste facility within the Town.

DERIVATION TABLE

Chapter DT. DERIVATION TABLE

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and sections of the 2000 Code have been included in the 2014 Code, or the reason for exclusion.

§ DT-1. Derivation Table of 2000 Code to 2014 Code

NCM	=	Not Code material (legislation is not general or permanent in nature).
REP	=	Repealed effective with adoption of Code; see Ch. <u>1</u> , Art. <u>II</u> .
NI	=	Not included in Code but saved from repeal.
NLP	=	New legislation is pending.

Chapter/Title From 2000 Code	Location in 2014 Code
Title 1, General Provisions	
Ch. 1, Use and Construction of Code of Ordinances	
§§ 1-1-1 and 1-1-4	NLP; see Ch. <u>1</u> , Art. <u>II</u>
§§ 1-1-2, 1-1-3, 1-1-5, 1-1-6 and 1-1-7	Ch. <u>1</u> , Art. <u>I</u>
Ch. 2, Issuance of Citations	REP
Ch. 3, Fee Schedule	Ch. <u>72</u>
Title 2, Government and Administration	
Ch. 1, General Provisions and Elections	
§§ 2-1-1 and 2-1-2	Ch. <u>176</u>
§§ 2-1-3, 2-1-4 and 2-1-5	Ch. <u>54</u>
§ 2-1-6	Ch. <u>121</u>
§ 2-1-7 (extend Town officer terms in 2012 and 2013)	NCM (temporary measure)
Ch. 2, Town Meetings	Ch. <u>180</u>
Ch. 3, Town Board	Ch. <u>176</u>
Ch. 4, Town Officers and Employees	Ch. <u>132</u>
Ch. 5, Boards, Commissions and Committees	Ch. <u>23</u>
Ch. 6, Ethical Standards	Ch. <u>67</u>
Title 3, Finance and Public Records	
Ch. 1, Finance	Ch. <u>75</u> , Art. <u>I</u>
Ch. 2, Special Assessments	Ch. <u>75</u> , Art. <u>II</u>
Ch. 3, Public Records	Ch. <u>159</u>
Ch. 4, Public Building Use	Ch. <u>148</u>
Title 4, Administrative Determinations Review	
Ch. 1, Review of Administrative Determinations	Ch. <u>7</u>
Title 5, Public Safety	
Ch. 1, Fire Protection	

§ 5-1-1	Ch. <u>61</u> , Art. <u>I</u>
§ 5-1-2	Ch. <u>61</u> , Art. <u>II</u>
§§ 5-1-3 to 5-1-11	Ch. <u>295</u> , Art. <u>I</u>
Ch. 2, Fire Prevention and Safety Codes	Ch. <u>295</u> , Art. <u>II</u>
Ch. 3, Hazardous Materials	Ch. <u>316</u>
Ch. 4, Emergency Government	Ch. <u>58</u>
Ch. 5, Concealed Weapons	Ch. <u>389</u> , Art. <u>IV</u>
Title 6, Public Works	
Ch. 1, Public Works	
§§ 6-1-1 and 6-1-2	Ch. <u>176</u>
§ 6-1-3	Ch. <u>440</u> , Art. <u>I</u>
Ch. 2, Laying Out and Construction of Town Highways and Roads	Ch. <u>440</u> , Art. <u>III</u>
Ch. 3, Road Excavations; Trees	
§§ 6-3-1 and 6-3-2	Ch. <u>440</u> , Art. <u>IV</u>
§§ 6-3-3 to 6-3-10	Ch. <u>440</u> , Art. <u>I</u>
Ch. 4, Driveways; Culverts	
Title 7, Licensing and Regulation	
Ch. 1, Licensing of Dogs and Regulation of Animals	
Ch. 2, Fermented Malt Beverages and Intoxicating Liquor	Ch. <u>332</u> , Art. <u>I</u>
Ch. 3, Cigarette License	REP
Ch. 4, Transient Merchants	Ch. <u>461</u>
Ch. 5, Use of Explosives; Blasting Activities	Ch. <u>282</u>
Ch. 6, Regulation and Licensing of Fireworks	Ch. <u>299</u>
Ch. 7, Street Use Permits	Ch. <u>440</u> , Art. <u>II</u>
Ch. 8, Regulation of Large Assemblies of Persons	Ch. <u>223</u>
Ch. 9, Licensees To Pay Local Claims; Appellate Procedures	Ch. <u>75</u> , Art. <u>III</u>
Title 8, Health and Sanitation	
Ch. 1, Health and Sanitation	Ch. <u>320</u> , Art. <u>I</u>
Ch. 2, Pollution Abatement	Ch. <u>316</u>
Ch. 3, Waste Disposal Facilities	Ch. <u>495</u>
Title 9, Public Utilities	
Ch. 1, Cable Television	Expired
Ch. 2, Utility Placement in Town Highway System	Ch. <u>440</u> , Art. <u>V</u>
Title 10, Motor Vehicles and Traffic	
Ch. 1, Traffic and Parking	Ch. <u>483</u>

Ch. 2, All-Terrain Vehicles and Off-Road Motor Vehicle Operation; Snowmobiles	§§ 10-2-1 and 10-2-3	Ch. <u>433</u>
	§ 10-2-2	Ch. <u>483</u>
Ch. 3, Abandoned and Junked Vehicles	§§ 10-3-1 to 10-3-7	Ch. <u>479</u>
	§ 10-3-8	Ch. <u>400</u> , Art. <u>I</u>
Title 11, Offenses and Nuisances		
Ch. 1, State Statutes Adopted		Ch. <u>389</u> , Art. <u>I</u>
Ch. 2, Offenses Against Public Safety and Peace		Ch. <u>389</u> , Art. <u>II</u>
Ch. 3, Offenses Against Property		Ch. <u>389</u> , Art. <u>III</u>
Ch. 4, Offenses Involving Alcoholic Beverages		REP
Ch. 5, Offenses by Juveniles		REP
Ch. 6, Public Nuisances		Ch. <u>373</u>
Ch. 7, Regulation of Lewd and Sexually Explicit Conduct		REP
Title 12, Parks (Reserved for Future Use)		–
Title 13, Zoning (Reserved for Future Use; the Town of McMillan is governed by Marathon County Zoning)		–
Title 14, Subdivision and Platting		
Ch. 1, Land Division and Subdivision Code		Ch. <u>446</u>
Title 15, Building Code		
Ch. 1, Building Code		Ch. <u>237</u>
Ch. 2, Surface Water Drainage; Construction Site Erosion and Mineral Extraction		Ch. <u>276</u>
Ch. 3, Fair Housing		REP
Ch. 4, Grievances Regarding Access to Public Buildings, Programs, Services and Employment		Ch. <u>90</u> , Art. <u>I</u>
Ch. 5, Signs and Billboards		Ch. <u>427</u>

DISPOSITION LIST

Chapter DL. DISPOSITION LIST

The following is a chronological listing of legislation of the Town of McMillan adopted since the publication of the 2000 Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]

§ DL-1. Disposition of legislation.

Enactment Date	Subject	Disposition
3-13-2000	Adoption of Code	NLP; see Ch. <u>1</u> , Art. <u>II</u>
1-14-2002	Cable television franchise	NCM
10-10-2005	Comprehensive Plan	Ch. <u>255</u>
7-13-2009	Recycling and garbage	Ch. <u>320</u> , Art. <u>II</u>

Adoption Enactment Date	Subject	Disposition
11-9-2009	collection Recycling and garbage collection amendment	Ch. <u>320</u> , Art. <u>II</u>
3-12-2012	Extend terms expiring in April 2012 and April 2013	NCM (temporary measure)
4-9-2012	Concealed weapons	Ch. 496, Art. IV
5-14-2012	Finance amendment	Ch. <u>75</u> , Art. <u>I</u>
6-11-2012	Subdivision of land amendment	Ch. <u>446</u>
7-30-2012	Employee grievance procedure	Ch. <u>90</u> , Art. <u>II</u>
11-12-2012	Snowmobiles and all-terrain vehicles amendment	Ch. <u>433</u>
5-13-2013	Finance amendment	Ch. <u>75</u> , Art. <u>I</u>