

CHAPTER 4

Town Officers and Employees

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

- (a) **Elected Town Officers.** At the spring election, in odd-numbered years, the voters of the Town shall elect a Chairperson and two (2) Supervisors. At the spring election, in even-numbered years, the voters of the Town shall elect two (2) Supervisors. The following officers of the Town of Burke shall be chosen at the annual Town election in odd-numbered years for terms of two (2) years commencing on the first Tuesday of April in the year of their election:
- (1) A Town Clerk.
 - (2) A Town Treasurer.
- (b) **Restrictions.**
- (1) Only an elector of the Town may hold a Town office, other than an Assessor appointed under Sec. 60.307, Wis. Stats., if the Town elects to change the office of Assessor to an appointed position.
 - (2) No person may hold the offices of Town Treasurer and Town Assessor at the same time. No person may assume the office of Town Assessor unless certified by the Department of Revenue, under Sec. 73.09, as qualified to perform the functions of the office of Town Assessor. If the Town reverts to a system of electing instead 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 (5) days after completion of the canvass under Sec. 7.53, Wis. Stats., the Town Clerk shall transmit a notice of election to each person elected to a Town office.
- (d) **Term of Office.**
- (1) Every elected Town officer shall hold the office for two (2) years.

- (2) The regular term of elected Town officers, other than the Town Assessor, if elected, commenced on the second (2nd) Tuesday of April in the year of their election.

State Law Reference: Section 60.30, Wis. Stats.

SEC 2-4-2 TEMPORARY VACANCIES.

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

State Law Reference: Section 60.30(5), Wis. Stats.

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

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

- (d) **Failure to File Oath or Bond.** If any person elected or appointed to a Town office fails to file a required official oath or bond within the time prescribed by law, the failure to file constitutes refusal to serve in office.

State Law Reference: Section 60.31, Wis. Stats.

SEC. 2-4-4 COMPENSATION OF ELECTIVE TOWN OFFICES.

- (a) **Established by Town Meeting or Board.**
- (1) Except as provided under Subsection (2) below, the Town meeting shall establish the compensation of elective town offices.
 - (2) If authorized by the Town meeting under Sec. 60.10(2)(k), Wis. Stats., the Town board shall establish the compensation of elective Town offices, other than the office of Supervisor or Chairperson.
- (b) **Nature of Compensation.** Compensation under this Section may be:
- (1) An annual salary.
 - (2) A per diem compensation for each day or part of a day necessarily devoted to the service of the Town and the discharge of duties.
 - (3) A combination of the above.
- (c) **Changes During Term.** Subject to Subsection (d), the Town meeting or, if authorized to establish compensation, the Town Board may make a change in the compensation of an elective Town office to take effect during the term of office.
- (d) **When Established.** Compensation under this Section shall be established prior to the latest date and time for filing nomination papers for the office. After that date and time, no change may be made in the compensation of the office that applies to the current term of office.

State Law Reference: Section 60.32, Wis. Stats.

SEC. 2-4-5 REIMBURSEMENT OF EXPENSES.

- (a) **Generally.** The Town Board may provide for reimbursement of expenses necessarily incurred by any office or employee of the Town in the performance of official Town duties. The Board may determine who is eligible for expense reimbursement, which expenses are reimbursable and the amount of reimbursement. Expenses reimbursable under this Section include, but are not limited to:
- (1) Traveling expenses, including mileage, lodging and meal expenses.
 - (2) Costs associated with programs of instruction related to the officer's or employee's office or employment.
- (b) **Manuals.** The Town Board may purchase handbooks and manuals that will materially assist Town officials and employees in the performance of official duties.

State Law Reference: Section 60.321, Wis. Stats.

Cross Reference: Title 2, Chapter 7.

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

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

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

SEC. 2-4-7 TOWN CLERK.

The Town Clerk shall:

- (a) **Clerk of Town Meeting.** Serve as Clerk of the Town meeting under Sec. 60.15, Wis. Stats.
- (b) **Clerk of Town Board.**
 - (1) Serve as Clerk of the Town Board, attend meetings of the Board and keep a full record of its proceedings.
 - (2) File all accounts approved by the Town Board or allowed at Town meetings and enter a statement of the accounts in the Town's record books.
 - (3) File with the Town Board claims approved by the Clerk, as required under Sec. 60.44(2)(c), Wis. Stats.
- (c) **Finance Book.** Maintain a finance book, which shall contain a complete record of the finances of the Town, showing the receipts, with the date, amount and source of each receipt; the disbursements, with the date, amount and object of each disbursement; and any other information relating to Town finances prescribed by the Town Board. The financial records the Town Clerk is expected to maintain are in addition to, not in lieu of, those the Town Treasurer is expected to maintain.
- (d) **Elections and Appointments.**
 - (1) Perform the duties required by Chapters 5 to 12, Wis. Stats., relating to elections.
 - (2) Transmit to the County Clerk, within ten (10) days after election or appointment and qualification of any Town Supervisor, Treasurer, Assessor or Clerk, a written notice stating the name and post office address of the elected or appointed officer. The Clerk shall promptly notify the County Clerk of any subsequent changes in such offices.
 - (3) Transmit to the Clerk of Circuit Court, immediately after the election or appointment of any Constable or Municipal Judge in the Town, a written notice stating the name of the Constable or Municipal Judge and the term for which elected or appointed. If the Judge or Constable was elected or appointed to fill a vacancy in the office, the Clerk shall include in the notice the name of the incumbent who vacated the office.
- (e) **Sale of Real Property.** Execute the conveyance of real property of the Town. However, prior to the sale of any property by the Town Board, the electors attending a Town meeting must have given the Town Board authorization to do so.
- (f) **Notices.**
 - (1) Publish or post ordinances and resolutions as required under Sec. 60.80, Wis. Stats.
 - (2) Give notice of annual and special Town meetings as required under Sections 60.11(5) and 60.12(3), Wis. Stats.

- (g) **Records.**
 - (1) Comply with Subch. II of Chapter 19, Wis. Stats., concerning any record of which the Clerk is legal custodian.
 - (2) Demand and obtain the official books and papers of any Municipal Judge if the office becomes vacant and the Judge's successor is not elected or appointed and qualified, or if any Municipal Judge dies. The Town Clerk shall dispose of the books and papers as required by law.
- (h) **Licenses.** Issue any license or permit granted by the Town Board when presented with a receipt from the Town Treasurer indicating that any required fee has been paid.
- (i) **Schools.**
 - (1) Perform the Clerk's duties under Chapters 115 to 121, Wis. Stats., relating to public instruction.
 - (2) Within ten (10) days after the Clerk's election or appointment, report his or her name and post office address to the administrator of each cooperative educational service agency which contains any portion of the Town. The Clerk shall report to the administrator the name and post office address of each school district clerk within ten (10) days after the name and address is filed in the Clerk's office.
 - (3) Make and keep in the Clerk's office a map of the Town, showing the exact boundaries of school districts within the Town.
 - (4) Apportion, as provided by law, tax revenues collected by the Town for schools.
- (j) **Highways and Bridges.** Perform the duties specified in Chapters 80 to 92, Wis. Stats., relating to highways, bridges and drains.
- (k) **Notice of Property Tax Revenue.** Notify the Clerk of the county in which the Town is located, by March 15, of the proportion of property tax revenue and the credits under Sec. 79.10, Wis. Stats., that is to be disbursed by the County Clerk to each taxing jurisdiction located in the Town.
- (l) **In General.** Perform all other duties required by law, ordinance or lawful direction of the Town meeting or Town Board.

State Law Reference: Section 60.33, Wis. Stats.

SEC. 2-4-8 TOWN TREASURER.

The Town Treasurer shall:

- (a) **Receive and Disburse Town Money.**
 - (1) Receive and take charge of all money belonging to the Town, or which is required by law to be paid into the Town treasury, and disburse the money under Sec. 66.042, Wis. Stats.
 - (2) Keep an itemized account of all moneys received and disbursed, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid. The Treasurer shall issue numbered receipts for all funds received. At the request of the Town Board, the Treasurer shall present the account books, and any supporting documents requested, to the Board.
- (b) **Deposit of Town Money.**
 - (1) Deposit as soon as practicable funds of the Town in the name of the Town in the public depository designated by the Town Board. Failure to comply with this paragraph is grounds for removal from office.
 - (2) When money is deposited under Subsection (b)(1), the Treasurer and the Treasurer's sureties are not liable for any loss as defined in Sec. 34.01(6),

- Wis. Stats. The interest arising from the money deposited shall be paid into the Town treasury.
- (c) **Records.** Comply with Subch. II of Ch. 19, Wis. Stats., concerning records of which the Treasurer is legal custodian.
 - (d) **Taxes.** Perform all of the duties relating to taxation required of the Town Treasurer under Chapters 70 to 79, Wis. Stats.
 - (e) **Preliminary Settlement of School Taxes.**
 - (1) To make partial apportionment of levies by school districts and vocational, technical and adult education districts out of any funds available in the Town treasurer prior to the tax apportionment provided by Sec. 74.03(5), Wis. Stats., within five (5) days after the filing of a written request by the district board. The Town Board may not deny such a request. The district board may not receive more than one (1) payment under this Subsection during the month.
 - (2) On or before January 15 and February 15 and any other date specified by the district, and to the appropriate vocational, technical and adult education district treasurer, if the district has not received a payment under Subsection (e)(1) during that month. That payment shall be the proportion of the school district's or vocational, technical and adult education district's levy that the general property taxes collected in the Town, except collections for state trust fund loans, state tax and state special charges, up to the last day of the preceding month bears to the total general property tax levy in the Town for all purposes except levies for state trust fund loans, state tax and state special charges. The Town Treasurer may make the payments required under this Subsection without authorization by the Town Board.
 - (3) On or before January 15 and any other date specified by the Town Board, pay under Sec. 74.031, Wis. Stats., to the appropriate school district treasurer and vocational, technical and adult education district treasurer the proportion of the district's levy that the general property taxes collected in the Town, except collections for state trust fund loans, state tax and state special charges, up to the last date of the preceding month bears to the total general property tax levy in the Town for all purposes except levies for state trust fund loans, state tax and state special charges.

State Law Reference: Section 60.34, Wis. Stats.

SEC. 2-4-9 ASSESSOR.

- (a) **Qualification.**
 - (1) The Assessor, or assessment firm, shall be certified by the Department of Revenue under Section 73.03(2)(b), Wis. Stats., as qualified to perform the functions of an Assessor. Pursuant to Sec. 60.307(2), Wis. Stats., the Assessor shall be appointed by majority vote of the Town Board for a term as determined by contract, but not less than one (1) year.
 - (2) The Town Assessor so appointed need not be a resident of the Town of Burke and may hold the office of Assessor for another town or municipality with the consent of the Town Board.
- (b) **Duties.** The Assessor shall begin under Section 70.10, Wis. Stats., to make an assessment of all of the property in the Town liable to taxation, as prescribed by law. The Assessor shall return the assessment roll to the Town Clerk at the same time and in the same manner in which Town Assessors are required to do as required by Chapter 70, Wis. Stats.

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

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

SEC. 2-4-10 BUILDING INSPECTOR.

- (a) **Appointment.** There is hereby created the position of Building Inspector who shall be appointed by the Chairperson, subject to confirmation by the Town Board. He shall have an indefinite term of office. The Building Inspector shall review plans, collect building code-related fees and arrange for Assistant Inspectors to conduct on-site inspections. He shall be fully certified by the State of Wisconsin to enforce the One- and Two-Family Building Dwelling Code and other Town building ordinances.
- (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 building construction, alteration, and repair. With the authorization of the Town Board, he may appoint one (1) or more Deputy Building Inspectors and may delegate to them the above-mentioned powers and duties.
 - (2) The Building Inspector, (Plumbing Inspector and Heating, Ventilating and Air Conditioning (HVAC) Inspector) shall make all on-site inspections necessary for compliance and enforcement of the Building Code.
 - (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.
 - (4) The Building Inspector shall issue or cause to be issued all proper permits for such work after payment of the fees required therefor. He shall process all applications, make all inspections, and have the authority to issue or cause to be issued a certificate of completion.
- (c) **Right Of Entry.** The Building Inspector 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.

SEC. 2-4-11 WEED COMMISSIONER.

The Weed Commissioner shall be appointed by the Chairperson, subject to Town Board confirmation. The term of office of the Weed Commissioner shall commence 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 (1) year. The Weed Commissioner shall hold office pursuant to and fulfill the duties set out in state law.

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

SEC. 2-4-12 TOWN ATTORNEY.

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

State Law Reference: Section 60.37, Wis. Stats.

SEC. 2-4-13 TOWN ENGINEER.

The office of Town Engineer is an appointed position. The Town Engineer shall 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.

SEC. 2-4-14 TOWN OFFICERS AND EMPLOYEES.

- (a) The Town Board may, from time to time, authorize by resolution the employment of staff persons to perform work for the Town.
- (b) The Town Board shall adopt a formal position description for each officer and employee position of the Town. The position description shall state the duties, qualifications, hours and required skills, knowledge and abilities of the position.
- (c) The Town Board shall establish a schedule of compensation for its officers and employees. Elected officials shall be paid a salary to compensate them for performing their statutory duties.
- (d) The Town Board shall adopt a policy defining the general terms and conditions of employment of the Town's officers and employees. The policy shall remain in effect until modified by the Town Board, but shall not create any contract of employment of any Town employee or official.
- (e) The Town Board may, by resolution, designate a Town official or employee to serve as Administrative Coordinator of the Town. The person so designated shall serve at the pleasure of the Town Board. The Administrative Coordinator shall be responsible for directing the day-to-day business of the Town under the supervision of the Town Board and Town Chairman.

State Law Reference: Section 60.37, Wis. Stats.

SEC. 2-4-15 CUSTODY OF OFFICIAL PROPERTY.

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

State Law Reference: Section 19.21, Wis. Stats.