

## Chapter 4

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# Town Officers and Employees

2-4-1	Election of Town Officers; General Provisions
2-4-2	Temporary Vacancies
2-4-3	Official Oath and Bond
2-4-4	Compensation of Elective Town Offices
2-4-5	Reimbursement of Expenses
2-4-6	Compensation When Acting in More than One Official Capacity
2-4-7	Town Clerk/Treasurer
2-4-8	Town Administrator
2-4-9	Assessor
2-4-10	Building Inspector
2-4-11	Weed Commissioner
2-4-12	Town Attorney
2-4-13	Town Engineer
2-4-14	Town Employees
2-4-15	Custody of Official Property

### Sec. 2-4-1 Election of Town Officers; General Provisions.

- (a) **Elected Town Officers.** At the annual spring election, the Town shall elect a Chairperson and Supervisors as provided in section 2-3-1 of this Code.
- (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 or 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/Treasurer 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, commences 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.
- (b) Vacancies on the Town Board shall be filled by appointment by the remaining Supervisors and the Town Clerk/Treasurer, 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.
- (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 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.

*Cross Reference:* Section 2-7-14.

#### **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 Chairman.
- (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/Treasurer.**

- (a) **Combined Position and Appointment.**
  - (1) **Offices Combined.** Pursuant to Sec. 60.305(1), Wis. Stats., the Town Meeting has combined the positions of Town Clerk and Treasurer into a consolidated Clerk/Treasurer position.
  - (2) **Appointment.** Pursuant to action by resolution of the Town Meeting at its annual meeting in April, 1998, the Town Clerk/Treasurer shall be appointed by a majority of the members-elect of the Town Board, in accordance with the procedures set forth in sec. 60.30(1e), Wis. Stats., for a term as determined by the Town Board.
- (b) **Clerk Responsibilities.** The Town Clerk/Treasurer, in his or her capacity as Clerk, shall:
  - (1) **Clerk of Town Meeting.** Serve as Clerk of the Town meeting under Sec. 60.15, Wis. Stats.

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- (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 accounts in the Town's record books.
  - c. File with the Town Board claims approved by the Clerk/Treasurer, as required under Sec. 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 Ch. 5 to 12, Wis. Stats., relating to elections.
  - b. Transmit to the County Clerk, within ten (10) days after election or appointment and qualification of any Town supervisor, Treasurer, Assessor or Clerk/Treasurer, a written notice stating the name and post office address of the elected or appointed officer. The Clerk/Treasurer 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/Treasurer 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 Sec. 60.80, Wis. Stats.
  - b. Give notice of annual and special Town meetings as required under Secs. 60.11(5) and 60.12(3), Wis. Stats.
- (7) ***Records.***
- a. Comply with Subch. II of Ch. 19, Wis. Stats., concerning any record of which the Clerk/Treasurer 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/Treasurer 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/Treasurer's duties under Ch. 115 to 121, Wis. Stats., relating to public instruction.
  - b. Within ten (10) days after the Clerk/Treasurer'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/Treasurer 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/Treasurer's office.
  - c. Make and keep in the Clerk/Treasurer'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 Ch. 80 to 92, Wis. Stats., relating to highways, bridges and drains.
- (11) **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.
- (12) **In General.** Perform all other duties required by law, ordinance or lawful direction of the Town meeting or Town Board.
- (c) **Treasurer Responsibilities.** The Town Clerk/Treasurer, in his or her capacity as Town Treasurer, shall:
  - (1) **Receive and Disburse Town Money.**
    - a. 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.
    - b. 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 Clerk/Treasurer shall issue numbered receipts for all funds received. At the request of the Town Board, the Clerk/Treasurer shall present the account books, and any supporting documents requested, to the Board.

- (2) ***Deposit of Town Money.***
  - a. 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.
  - b. When money is deposited under subsection (b)(1), the Clerk/Treasurer and the Clerk/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.
- (3) ***Records.*** Comply with Subch. II of Ch. 19, Wis. Stats., concerning records of which the Treasurer is legal custodian.
- (4) ***Taxes.*** Perform all of the duties relating to taxation required of the Town Clerk/Treasurer under Ch. 70 to 79, Wis. Stats.
- (5) ***Preliminary Settlement of School Taxes.***
  - a. To make partial apportionment of levies by school districts and vocational, technical and adult education districts out of any funds available in the Town treasury 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.
  - b. On such dates required by state law, 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 Clerk/Treasurer may make the payments required under this subsection without authorization by the Town Board.

- c. 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:* Sections 60.33, 60.34 and 60.305, Wis. Stats.

### **Sec. 2-4-8 Town Administrator.**

- (a) **Position.** There is hereby created the position of Town Administrator. The Town Administrator shall be appointed by the Town Chairperson, subject to confirmation by the Town Board. The Town Administrator shall be appointed for a term as determined by the Town Board. No elected town officer may serve as Town Administrator.
- (b) **Powers and Duties.**
  - (1) The Town Administrator shall fulfill the duties prescribed for the position by the Town Board.
  - (2) The powers and duties of the Town Administrator shall not conflict with the duties and powers conferred by law on other town officers.

### **Sec. 2-4-9 Assessor.**

- (a) **Qualification.**
  - (1) The Assessor, or assessment firm, shall be certified by the Department of Revenue under Sec. 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 Westport 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/Treasurer at the same time and in the same manner in which Town Assessors are required to do as required by Ch. 70, Wis. Stats.

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

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

## **Sec. 2-4-10 Building Inspector.**

- (a) **Appointment.** There is hereby created the position of Building Inspector(s) who shall be appointed by the Chairperson, subject to confirmation by the Town Board. He/she 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. Inspectors shall be fully certified by the State of Wisconsin to enforce the One- and Two-Family Building Dwelling Code, Electrical Code, Plumbing Code, Heating, Ventilating and Air Conditioning (HVAC) codes, 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 Assistant Building Inspectors and may delegate to them the above-mentioned powers and duties.
  - (2) The Building Inspector, (Plumbing Inspector, Electrical 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) Inspectors shall issue or cause to be issued all proper permits for such work after payment of the fees required therefor. Inspectors 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.** 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.

**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/Treasurer, 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) **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.
- (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/she shall, when requested by Town officers, give written legal opinions, which shall be filed with the Town.
  - (3) He/she shall draft ordinances, bonds and other instruments as may be required by Town officers.
  - (4) He/she may appoint an assistant, who shall have power to perform his/her duties and for whose acts he/she 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 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.

**Sec. 2-4-14 Town Employees.**

The Town Board may employ on a temporary or permanent basis persons necessary to carry out the functions of Town government. The Board may establish the qualifications and terms of

employment, which may include the residency of the employee. The Board may delegate the authority to hire Town employees to any Town official or employee.

*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 Sec. 19.21, Wis. Stats., with respect to the care and custody of official property.

*State Law Reference:* Section 19.21, Wis. Stats.