

TITLE II: GOVERNMENT AND ADMINISTRATION

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CHAPTER 1: VILLAGE GOVERNMENT

Section

- 2-1-1 Village government
- 2-1-2 Non-partisan primary election

§ 2-1-1 VILLAGE GOVERNMENT.

The Village of Almond is a body corporate and politic with the powers of a municipality at common law and governed by the provisions of Wis. Stats. Ch. 61 and 66, laws amending those chapters, other acts of the legislature and the Constitution of the State of Wisconsin.

Statutory reference:

Wis. Const., Art. XI, § 3

§ 2-1-2 NON-PARTISAN PRIMARY ELECTION.

The Village of Almond hereby elects not to be governed by Wis. Stats. § 8.05(1). From and after the effective date of this Charter Ordinance, candidates for elective village offices shall be nominated by a non-partisan primary conducted pursuant to Wis. Stats. § 8.05(4). The candidate shall file with his or her nomination papers a declaration that he or she will qualify for the office for which he may be elected.

CHAPTER 2: VILLAGE BOARD

Section

- 2-2-1 Village Board
- 2-2-2 Trustees
- 2-2-3 Village President
- 2-2-4 Standing committees
- 2-2-5 General powers of the Village Board
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- 2-2-22 Record of proceedings
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§ 2-2-1 VILLAGE BOARD.

The Trustees of the village shall constitute the Village Board. The Village Board shall be vested with all the powers of the village not specifically given some other officer, as well as those powers set forth elsewhere throughout this code.

Statutory reference:

Wis. Stats. §§ 61.32 and 61.34

§ 2-2-2 TRUSTEES.

(A) *Election; term; number.* The village shall have 6 Trustees in addition to the President, who is a Trustee by virtue of his or her office as President. The 6 Trustees shall constitute the Village Board. Three Trustees shall be elected at each Spring election for a term of 2 years, commencing on the Third Tuesday of April of the year of their election.

(B) *Appointment as president.* A Village Trustee shall be eligible for appointment as Village President to fill an unexpired term.

Statutory reference:

Wis. Stats. §§ 61.20 and 61.325

§ 2-2-3 VILLAGE PRESIDENT.

(A) The Village President shall by virtue of his or her office be a Trustee and preside at all meetings of the Board and have a vote as Trustee, sign all ordinances, rules, bylaws, regulations, commissions, licenses and permits adopted or authorized by the Board and all orders drawn on the treasury. He or she shall maintain peace and good order, see that the village ordinances are faithfully obeyed, and in case of disturbance, riot or other apparent necessity appoint as many special marshals as he or she shall deem necessary, who for the time being shall possess all the powers and rights of constables.

(B) The Village President shall be elected at the regular spring election in odd-numbered years for a term of 2 years commencing on the Third Tuesday of April.

Statutory reference:

Wis. Stats. § 61.24

§ 2-2-4 STANDING COMMITTEES.

(A) *Committee appointments.* At the first regular meeting in May of the Village Board, The Village President shall appoint 3 Trustees to each of the following standing committees:

- (1) Finance;
- (2) Properties;
- (3) Personnel/Ordinances;
- (4) Fire;
- (5) Public Works;
- (6) Maintenance/Equipment/Civil Defense; and

(7) The special committees as shall be formed by the Village Board from time to time.

(B) *Committee Chairperson.* The President shall designate the Chairperson of each standing committee. He or she shall appoint all special committees and designate the Chairperson of each. Designation of chairpersons shall not be subject to confirmation by a majority vote of the Board.

(C) *Committee reports.* Each committee shall at the next regular Board meeting report on all matters referred to it. This report shall recommend a definite action on each item and shall be approved by a majority of the committee. Any committee may require any village officer or employee to confer with it and supply information in connection with any matter pending before it.

(Ord. passed - -)

§ 2-2-5 GENERAL POWERS OF THE VILLAGE BOARD.

(A) *General.* The Village Board shall be vested with all the powers of the village not specifically given some other officer. Except as otherwise provided by law, the Village Board shall have the management and control of the village property, finances, highways, streets, navigable waters and the public service, and shall have the power to act for the government and good order of the village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

(B) *Acquisition and disposal of property.* The Village Board may acquire property, real or personal, within or without the village, for parks, libraries, historic places, recreation, beautification, streets, waterworks, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas and for any other public purpose; may acquire real property within or contiguous to the village, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on the property for instruction, recreation, amusement and other public purposes; and may sell and convey the property. Condemnation shall be as provided by Wis. Stats. Ch. 32.

(C) *Acquisition of easements and property rights.* Confirming all powers granted to the Village Board and in furtherance thereof, the Board is expressly authorized to acquire by gift, purchase or condemnation under Wis. Stats. Ch. 32, any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under Wis. Stats. §§ 61.35 and 62.23; and may sell and convey the easements or property rights when no longer needed for public use or protection.

(D) *Village finances.* The Village Board may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the village finances. The Village Board may loan

money to any school district located within the village or within which the village is wholly or partially located in such sums as are needed by the district to meet the immediate expenses of operating the schools thereof, and the Board of the district may borrow money from the village accordingly and give its note therefor. No such loan shall be made to extend beyond August 30 next following the making thereof or in an amount exceeding $\frac{1}{2}$ of the estimated receipts for the district as certified by the State Superintendent of Public Instruction and the local School Clerk. The rate of interest on any such loan shall be determined by the Village Board.

(E) *Construction of powers.* Consistent with the purpose of giving to villages the largest measure of self-government in accordance with the spirit of the home rule amendment to the Constitution, the grants of power to the Village Board in this section and throughout this code of ordinances shall be liberally construed in favor of the rights, powers and privileges of villages to promote the general welfare, peace, good order and prosperity of the village and its inhabitants.

Statutory reference:

Wis. Const. Art. XI, § 3

Wis. Stats. § 61.34

§ 2-2-6 COOPERATION WITH OTHER MUNICIPALITIES.

The Village Board, on behalf of the village, may join with other villages or cities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees.

Statutory reference:

Wis. Stats. §§ 61.34(2) and 66.0301(2)

§ 2-2-7 INTERNAL POWERS OF THE BOARD.

The Village Board has the power to preserve order at its meetings, compel attendance of Trustees and punish nonattendance. The Village Board shall be judge of the election and qualification of its members.

Statutory reference:

Wis. Stats. § 61.32

§ 2-2-8 SALARIES.

The President and other Trustees who make up the Village Board, whether operating under general or special law, may by no less than a $\frac{3}{4}$ vote of all the members of the Village Board determine that an annual salary be paid the President and Trustees. Salaries heretofore established shall so remain until changed by ordinance and shall not be increased or diminished during their terms of office.

Statutory reference:

Wis. Stats. § 61.32

§ 2-2-9 MEETINGS.

(A) Regular meetings of the Village Board shall be held on the second Monday of each calendar month at 7:00 p.m. local time.

(B) Any regular meeting falling on a legal holiday shall be held the next following secular day not a legal holiday at the same time and place.

(C) All meetings of the Board shall be held at the Municipal Center, Almond, unless specified otherwise in the minutes of the preceding meeting, by notice in the official newspaper or by written notice posted at the regular meeting place at least 3 hours prior to any meeting.

(D) In any event, all Board meetings shall be held within the boundaries of the Village of Almond. A majority of Trustees must consent to any change in the place of any meeting of the Board.

Statutory reference:

Wis. Stats. § 61.32

§ 2-2-10 SPECIAL MEETINGS.

(A) Special meetings may be called by any 2 Trustees by notifying the Clerk not less than 24 hours prior to the specified time of the meeting.

(B) The Clerk shall immediately notify all Trustees of the time and place of the meeting, shall cause public notice to be posted in at least 3 public places likely to give notice to persons affected no less than 6 hours prior to the time specified for the meeting and shall provide proper notice to newspapers as required by the Open Meetings Law.

(C) The notice shall be delivered to each Trustee personally or left at his or her usual place of abode.

(D) The Clerk shall cause an affidavit of service of the notice to be filed in his or her office prior to the time fixed for the special meeting.

(E) Special meetings may be held without personal notice to each Trustees when all members of the Board are present, or consent in writing to the holding of the meeting.

(F) Unless all Trustees are in attendance, no business shall be transacted at a special meeting except for the purpose stated in the notice thereof.

(Ord. passed 7-7-1994)

Statutory reference:

Wis. Stats. §§ 61.32 and 985.02(2)(a)

§ 2-2-11 OPEN MEETINGS.

All meetings shall be open to the public.

Statutory reference:

Wis. Stats. § 61.32

Wis Stats. Ch. 19, Subch. IV

§ 2-2-12 QUORUM.

Four Trustees, including the Village President, shall constitute a quorum, but a lesser number may adjourn if a majority is not present or compel the attendance of absent members. A call of the house may be ordered by majority vote if 3 Trustees are present.

Statutory reference:

Wis. Stats. § 61.32

§ 2-2-13 PRESIDING OFFICERS.

The President shall preside at all meetings when present. In his or her absence, the Village Board may select another Trustee to preside, and in that case the Clerk shall call the meeting to order and preside until the Village Board selects a Trustee to preside.

Statutory reference:

Wis. Stats. § 61.32

§ 2-2-14 ORDER OF BUSINESS.

(A) At all meetings, the following order may be observed in conducting the business of the Village Board:

- (1) Call to order by presiding officer;
- (2) Roll call. If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specified date and time;
- (3) Reading, corrections and approval of minutes of previous meeting;
- (4) Treasurer's report;
- (5) Committee reports;
- (6) Unfinished business from previous meeting;

(7) New business, including the introduction of ordinances, resolutions or other communications;

(8) Reports of village officers;

(9) Miscellaneous business; and

(10) Adjournment.

(B) No business shall be taken up out of order unless by unanimous consent of all Trustees and in the absence of any debate whatsoever.

§ 2-2-15 INTRODUCTION OF BUSINESS.

(A) *Ordinances and the like, to be in writing.* All ordinances, resolutions or other matters submitted to the Board shall be in writing and shall include at the outset a brief statement of the subject matter, a title and the name of the Trustee introducing same. All written material introduced shall be read by the Clerk in full when requested by a Trustee. These matters may be referred to the appropriate committee before Board action.

(B) *Subject and numbering of ordinances.* Each ordinance shall be related to no more than 1 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 titles of amending and repealing ordinances shall reflect their purpose to amend or repeal.

§ 2-2-16 MOTIONS.

(A) When a motion is made and seconded, it shall be deemed in possession of the Board. It shall then be stated by the presiding officer or, if in writing, shall be delivered to the Clerk and read by him or her, prior to debate.

(B) After a motion is stated by the presiding officer or read by the Clerk, it shall not be withdrawn from debate except by consent of the Board.

(C) A motion to adjourn shall always be in order, unless the Board is engaged in voting, and shall be decided without debate.

§ 2-2-17 DEBATE.

(A) When a member addresses a question or makes a motion, he or she shall respectfully address the presiding officer who shall announce the name of the member entitled to the floor.

(B) Members shall confine discussion to the question under consideration. No member may speak continuously for a period longer than 10 minutes without leave of 2/3 of the Board members present.

§ 2-2-18 VOTING.

(A) *Any Trustee may demand a vote on any matter.* The Clerk shall call for the ayes and noes on votes in continuous rotation, beginning each roll call 1 name further down the roster of Trustees. The Clerk shall record the ayes and noes on each vote.

(B) *Majority.* A majority vote of the Trustees shall be necessary for passage of any ordinance, resolution or approval of appointment, unless otherwise expressly required.

§ 2-2-19 QUESTIONS OF ORDER.

The presiding officer shall decide all questions of order, subject to appeal to the Village Board.

§ 2-2-20 CITIZEN'S RIGHT TO ADDRESS THE VILLAGE BOARD.

Any person shall have the right to speak on a subject under consideration by the Village Board. Citizen-speakers will be limited to 5 minutes unless the Board agrees by majority to extend the time.

§ 2-2-21 OTHER PROCEDURES; *ROBERT'S RULES OF ORDER.*

The Board may by majority vote establish such other rules for the conduct of any 1 meeting as are considered necessary and appropriate, provided they do not conflict with the provisions of this chapter. In the absence of an express procedural rule governing Board meetings, the Board shall be guided by *Robert's Rules of Order Revised* (1951), which is hereby incorporated by reference.

§ 2-2-22 RECORD OF PROCEEDINGS.

The Board shall keep a record of all its proceedings. The record shall include the substance of every official action taken by the governing body. The minutes of Board meetings shall be available for public inspection and review. Nothing herein shall be construed to relieve the village from publishing any proceedings, ordinance or other matter or thing required by law to be published. Notwithstanding the provisions of Wis. Stats. § 985.08(4), the fee for any such publication shall not exceed the rates specified in Wis. Stats. § 985.08(1).

Statutory reference:

Wis. Stats. § 61.32

§ 2-2-23 WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT.

All ordinances and resolutions shall take effect and be in force on and after the date of their passage unless otherwise provided in such ordinances or resolutions.

CHAPTER 3: MUNICIPAL OFFICERS AND EMPLOYEES

Section

- 2-3-1 Village Clerk
- 2-3-2 Deputy Clerk
- 2-3-3 Village Treasurer
- 2-3-4 Deputy Treasurer
- 2-3-5 Fire Chief
- 2-3-6 Village Attorney
- 2-3-7 Assessor
- 2-3-8 Building Inspector
- 2-3-9 Health Officer
- 2-3-10 Weed Commissioner
- 2-3-11 Oaths of office
- 2-3-12 Vacancies
- 2-3-13 Removal from office
- 2-3-14 Custody of official property

§ 2-3-1 VILLAGE CLERK.

(A) *Term.* The Office of the Clerk shall be a hired hourly employee, and shall be hired by the Village President with the Village Board's approval.

(B) *Duties.* The Clerk shall perform the following duties:

(1) To perform any duties prescribed by law relative to elections, to keep subject to inspection all election returns required to be filed in this office, and to notify persons elected or appointed to village offices (see Wis. Stats. § 61.25);

(2) To transmit to the County Clerk, within 10 days after election or appointment and qualification, a certified statement of the name and term for which elected or appointed, of the President, Clerk, Treasurer and Assessor; and to the Clerk of the Circuit Court immediately after their election or appointment and qualification, a like statement of the time and term for which elected or appointed of every Municipal Judge, Chief of Police, Marshal or Constable of the Village, if any;

(3) To attend all meetings of the Village Board; to record and sign the proceedings thereof and all ordinances, rules bylaws, resolutions and regulations adopted, and to countersign and keep a record

of all licenses, commissions and permits granted or authorized by them, and for such purpose to keep the following books: a minute book, in which shall be recorded in chronological order full minutes of all elections, general or special, and the statements of the inspectors thereof; full minutes of all the proceedings of the Village Board; the title of all ordinances, rules and regulations and bylaws, with reference to the book and page where the same may be found; an ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations and bylaws; a finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and sources thereof, and the disbursements, with the date, amount and sources thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in either such other matters as the Board prescribes; and other books as the Board directs;

(4) To countersign and cause to be published or posted every ordinance, bylaw or resolution as required by law, and to have proper proof thereof made and filed;

(5) To be the custodian of the corporate seal, and to file as required by law and to safely keep all records, books, papers or property belonging to, filed or deposited in his or her office, and deliver the same to his or her successor when qualified; to permit any person with proper care to examine and copy any of the same, and to make and certify a copy of any thereof when required, on payment of the same fees allowed town clerks therefor;

(6) To make a tax roll; to make and transmit to the County Clerk a statement showing the assessed valuation of all the property in the village and separately the amount of all taxes levied therein, including highway and street taxes, for the current year, and the purposes for which they were levied; and

(7) To perform all other duties required by law or by any ordinance or other direction of the Village Board.

(Am. Ord. passed 8-10-2015; Am. Ord. passed 3-22-2018)

Statutory reference:

Wis. Stats. § 61.25

§ 2-3-2 DEPUTY CLERK.

(A) The Village Clerk, subject to approval by a majority of all the members of the Village Board, may in writing, filed in the village office, appoint a Deputy who shall act under his or her direction and who during the temporary absence or disability of the Clerk or during a vacancy in that office shall perform the duties of Clerk.

(B) The Deputy shall receive compensation as the Village Board shall determine. The acts of the Deputy shall be covered by official bond as the Village Board shall direct.

§ 2-3-3 VILLAGE TREASURER.

(A) The Office of Treasurer shall be an elected position. The Treasurer shall hold office for a term of 2 years. The Treasurer shall be elected at the first regular spring election in odd-numbered years. The Treasurer's term of office shall commence May 15.

(B) The Treasurer shall perform the following duties:

(1) *Duties.* It shall be the Treasurer's duty to receive all monies belonging or accruing to the village from any source whatever or directed by law to be paid to the Treasurer; to deposit upon receipt thereof the funds of the village in the name of the village in the public depository designated by the Board, and failure to comply with the provisions hereof shall be prima facie grounds for removal from office, and when the money is so deposited, the Treasurer and bondsmen shall not be liable for the losses as are defined by Wis. Stats. § 34.01(2), and the interest arising therefrom shall be paid into the village treasury; to pay the same only on the written order of the President, countersigned by the Treasurer and specifying the number thereof, the payee and the amount and the object for which drawn; to keep just and accurate and detailed accounts of all the transactions, showing when, to whom and for what purpose all payments are made, in books provided by the Village Board, and preserve all vouchers filed in the office; to render an account and settlement of all transactions to the Board at its last meeting prior to the annual election, and at all other times when required by them; to deliver to the successor when qualified all books of account, papers and property of the office and all money on hand as Treasurer, and to perform other duties as are required by law or the Village Board. There shall be kept but 1 fund in the treasury, except as otherwise provided. The Treasurer shall also execute the bond required by Wis. Stats. § 70.67, and take receipt therefor, which the Clerk shall file in the village offices. On receipt of the tax roll the Treasurer shall, and while acting as collector of taxes, exercise the same powers and perform the same duties as are by law conferred upon and required of town treasurers while acting in that capacity, and be subject to the same penalties and liabilities.

(2) *Additional duties.* The Village Treasurer shall also be required to perform duties as conferred upon town treasurers in Wis. Stats. § 60.34.

(3) *Bond.* The Village Treasurer shall execute and file an official bond which may be furnished by a surety company as provided by Wis. Stats. § 632.17(2). The Village Treasurer shall also comply with the bond provisions of Wis. Stats. § 70.67, relating to security for tax monies coming within the Treasurer's control.

Statutory reference:

Wis. Stats. §§ 61.26, 66.0609, 69.60, 69.68, 77.61(11), 95.21 and 174.06

§ 2-3-4 DEPUTY TREASURER.

The Village Treasurer, subject to approval by a majority of all the members of the Village Board, may in writing, filed in the office of the Clerk, appoint a Deputy Treasurer who shall act under his or her direction and who during a temporary absence or disability of the Treasurer or during a vacancy in such office shall perform the duties of Treasurer. The Deputy shall receive such compensation as the

Village Board shall determine. The acts of the Deputy shall be covered by official bond as the Village Board shall direct.

Statutory reference:

Wis. Stats. § 61.261

§ 2-3-5 FIRE CHIEF.

The selection and responsibilities of the Fire Chief shall be governed by the bylaws of the Almond Fire Department. The Fire Chief shall serve as Fire Inspector within the Village.

§ 2-3-6 VILLAGE ATTORNEY.

(A) *Appointment.* The Office of Village Attorney shall be an appointed position. The Village Attorney shall hold office for a term of 2 years. The Village Attorney shall be appointed at the first regular meeting of the Village Board in May in odd-numbered years by the Village President, subject to confirmation by a majority vote of the members of the Board. The Village President shall not vote on the appointment except in the case of a tie. The Village Attorney's term of office shall commence on May 15.

(B) *Duties.* The Village Attorney shall be legal advisor to the Village Board and all officers, boards and commissions. He or she shall represent the village in all litigation, unless the Village Board expressly employs special counsel. The Village Attorney shall serve for an indefinite term at the pleasure of the Board, and compensation or a method for calculating compensation shall be agreed upon between the Village Attorney and the Village Board at least yearly and in writing. The Village Attorney shall perform such other duties as provided by state law and as designated by the Village Board.

§ 2-3-7 ASSESSOR.

(A) *Selection.*

(1) The Assessor shall be appointed for a 2-year term of office. The Assessor shall be appointed at the first regular meeting of the Village Board in January in odd-numbered years by the Village President, subject to confirmation by a majority vote of the Village Board.

(2) The Village President shall not vote on the appointment except in the case of a tie. The Assessor's term of office shall commence on the first day of February.

(3) The Village Board may fill a vacancy to the office of Village Assessor at any regular meeting.

(B) *Duties.* The Assessor shall begin under Wis. Stats. § 70.10, to make an assessment of all of the property in the village liable to taxation, as prescribed by law. The Assessor shall return the assessment

roll to the Village Clerk-Treasurer at the same time and in the same manner in which town assessors are required to do as required by Wis. Stats. Ch. 70.

Case reference:

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

Statutory reference:

Wis. Stats. § 61.27, Ch. 70

§ 2-3-8 BUILDING INSPECTOR.

(A) The Building Inspector shall be appointed for a 2-year term of office. The Building Inspector shall be appointed at the first regular meeting of the Village Board in May in odd-numbered years by the Village President, subject to confirmation by a majority vote of the Village Board. The Village President shall not vote on the appointment except in the case of a tie. The Building Inspector's term of office shall commence on May 15.

(B) The Building Inspector shall enforce all ordinances and laws relating to the erection, alteration, repair and removal of buildings, including any regulations of the State of Wisconsin. There is hereby vested in the Building Inspector the necessary power and authority to properly execute his or her duties. The person appointed shall be a certified building inspector.

§ 2-3-9 HEALTH OFFICER.

The village comes under the Portage County Health Department and the Portage County Health Officer.

Statutory reference:

Wis. Stats. § 251.001

§ 2-3-10 WEED COMMISSIONER.

(A) The Weed Commissioner shall be appointed annually by the Village President in May. The term of office of the Weed Commissioner shall commence on May 15 following his or her appointment.

(B) The Weed Commissioner shall take the official oath, which oath shall be filed in the Office of the Clerk, and shall hold office for 1 year.

(C) The Weed Commissioner shall hold office pursuant to and fulfill the duties set out in state law.

Statutory reference:

Wis. Stats. §§ 66.0517

§ 2-3-11 OATHS OF OFFICE.*(A) Requirement.*

(1) Within 5 days after the election or appointment of any village officers, the Village Clerk shall notify the person so selected thereof unless he or she voted at the election.

(2) Every person elected to the office of President or Clerk or Treasurer shall within 5 days after election or notice thereof, when required, take and file the official oath.

(B) Form; procedure. The form, filing and general procedure for the taking of oaths shall be governed by Wis. Stats. Ch. 19, subchapter I.

Statutory reference:

Wis. Stats. § 19.01

§ 2-3-12 VACANCIES.

If any officer be absent or temporarily incapacitated from any cause the Board may appoint a person to discharge his or her duties until the officer returns or until the disability abates. Permanent vacancies shall be filled as provided in Wis. Stats. § 17.24.

Statutory reference:

Wis. Stats. §§ 17.035, 17.24, 17.28, 62.13(1) and 61.325

§ 2-3-13 REMOVAL FROM OFFICE.

Officers of the village, whether elected or appointed, may be removed pursuant to Wis. Stats. § 17.13. Violation of either Wis. Stats. §§ 946.12 or 926.13, shall constitute cause for removal under Wis. Stats. § 17.13(3).

Case reference:

62 Atty. Gen. Op. 97

Statutory reference:

Wis. Stats. § 17.13

§ 2-3-14 CUSTODY OF OFFICIAL PROPERTY.

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

Statutory reference:

Wis. Stats. § 19.21

CHAPTER 4: BOARDS AND COMMISSIONS

Section

- 2-4-1 Board of Health
- 2-4-2 Board of Review

§ 2-4-1 BOARD OF HEALTH.

The village comes under the authority of the Portage County Board of Health.

Statutory reference:

Wis. Stats. § 251.02(3m)

§ 2-4-2 BOARD OF REVIEW.

(A) *Composition.* The Board of Review shall consist of the Village President, Clerk and 2 Board members appointed by the Village President and confirmed by majority vote of the Board.

(B) *Duties.* The duties and functions of the Board of Review shall be as prescribed in Wis. Stats. § 70.47.

Statutory reference:

Wis. Stats. §§ 70.46 and 70.47

CHAPTER 5: FINANCE AND GENERAL RELIEF

Section

- 2-5-1 Duplicate Treasurer's bond eliminated
- 2-5-2 Public depositories
- 2-5-3 Claims against village
- 2-5-4 Preparation and adoption of annual budget
- 2-5-5 Preparation of tax roll and receipts
- 2-5-6 Salaries

§ 2-5-1 DUPLICATE TREASURER'S BOND ELIMINATED.

(A) *Bond eliminated.* The village elects not to give the bond on the Village Clerk-Treasurer provided for by Wis. Stats. § 70.67(1).

(B) *Village liable for default of Treasurer.* Pursuant to Wis. Stats. § 70.67(2), the village shall be obligated to pay, in case the Clerk-Treasurer shall fail to do so, all state and county taxes required by law to be paid by the Treasurer to the County Treasurer.

Statutory reference:

Wis. Stats. § 70.67

§ 2-5-2 PUBLIC DEPOSITORIES.

(A) The Village Board shall designate the public depository or depositories within this state within which village funds shall be deposited, and when the money is deposited in the depository in the name of the village, the Treasurer and bondsman shall not be liable for the losses as are defined by state law.

(B) The interest arising therefrom shall be paid into the village treasury.

Statutory reference:

Wis. Stats. § 62.12(7)

§ 2-5-3 CLAIMS AGAINST VILLAGE.

(A) *Claims to be certified.* Prior to submission of any account, demand or claim to the Village Board for approval of payment, the Village Clerk shall certify, or cause to be endorsed thereon or on attached papers that the following conditions have been complied with:

- (1) That funds are available therefor pursuant to the budget;
- (2) That the item or service was duly authorized by the proper official or agency and has been received or rendered in accordance with the purchasing agreement; and
- (3) That the claim is accurate in amount and a proper charge against the treasury.

(B) *Village Board to audit accounts.*

(1) No account or demand against the village, except as provided in division (B)(2) below, shall be paid until it has been audited by the Village Board and an order drawn on the Village Treasurer therefor. Every such account shall be itemized and certified as provided in division (A) above.

(2) After auditing, the Village Board shall cause to be endorsed by the Clerk, on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed or specifying the items or parts of items disallowed. The minutes of the proceedings of the Board or a statement attached thereto shall show to whom and for what purpose every such account was allowed and the amount.

(C) *Payment of regular wages or salaries.* Regular wages or salaries of village officers and employees shall be paid by payroll, verified by the proper village official, department head, board or commission and filed with the Village Clerk in time for payment on the regular pay day.

(D) *Method of incurring claims.* All actions of the Village Board appropriating money or creating a charge against the village, other than claims for purchases or work previously authorized by the Board, shall only be acted upon at the next regular meeting after introduction, provided that this rule may be suspended by affirmative vote of 3/4 of all members of the Board. A roll call vote shall be taken and recorded on all appropriations.

Statutory reference:

Wis. Stats. §§ 66.0609 and 66.25

§ 2-5-4 PREPARATION AND ADOPTION OF ANNUAL BUDGET.

(A) *Village President to prepare budget.* As soon as tax levies are received each year, the Village President, with the assistance of the Village Clerk and Finance Committee, shall prepare and submit to the Village Board a proposed budget presenting a financial plan for conducting the affairs of the village for the ensuing year. Before preparing the proposed budget, the President shall consult with the heads of village departments and with village officials and shall then determine the total amount to be recommended in the budget for each village department or activity.

(B) *Form of proposed budget.*

(1) The proposed budget shall include the following information:

(a) The actual expenditures of each department and activity for the expired portion of the current year and last preceding fiscal year and the estimated expense of conducting each department and activity of the village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year;

(b) An itemization of all anticipated income of the village from sources other than general property taxes and bond issues, with a comparative statement of the amounts received by the village from each of the same or similar sources for the last preceding and current fiscal year;

(c) All existing indebtedness of the village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year;

(d) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures; and

(e) Other information as may be required by the Village Board and by state law.

(2) The Village Board shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(C) *Appropriation ordinance; hearing.* The Village President, with the assistance of the Village Clerk, shall submit to the Village Board with the annual budget a draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Before adoption of a final appropriation ordinance, the Village Board shall hold a public hearing on the budget and the proposed appropriation ordinance as required by law.

(D) *Changes in final budget.* Upon written recommendation of the Village President, the Village Board may at any time by a 2/3 vote of the entire membership transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of the transfer shall be given by publication within 8 days thereafter in a newspaper in general circulation in the village.

(E) *Expenditures limited by annual appropriation.* No money shall be drawn from the treasury of the village, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance and changes therein authorized in accordance with division (D) above. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Village 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.

§ 2-5-5 PREPARATION OF TAX ROLL AND TAX RECEIPTS.

Tax roll and tax receipts are prepared by the Portage County Treasurer.

Statutory reference:

Wis. Stats. §§ 70.65

§ 2-5-6 SALARIES.

All officers of the village shall receive salaries as may be provided from time to time by the Village Board by ordinance. No officer receiving a salary from the village shall be entitled to retain any portion of any fees collected by him or her for the performance of his or her duties as such officer in the absence of a specific law or ordinance to that effect. Payment of regular wages and salaries established by the Village Board shall be by payroll.

CHAPTER 6: ETHICS

Section

2-6-1 Receipt of gifts or gratuities

§ 2-6-1 RECEIPT OF GIFTS OR GRATUITIES.

It shall be unlawful for any public employee or public official to receive or offer to receive, either directly or indirectly, any gift, gratuity or anything of value which he or she is not authorized to receive from any person, if that person:

(A) Has or is seeking to obtain contractual or other business or financial relationships with the public employ's employer or the governmental body of the public official;

(B) Conducts operations or activities which are regulated by the public employee's employer or the governmental body of a public official; or

(C) Has interests which may be substantially affected by such public employee's employer or the governmental body of the public official.

CHAPTER 7: PUBLIC RECORDS

Section

- 2-7-1 Definitions
- 2-7-2 Duty to maintain records
- 2-7-3 Legal custodian(s)
- 2-7-4 Public access to records
- 2-7-5 Access procedures
- 2-7-6 Limitations on right to access
- 2-7-7 Destruction of records
- 2-7-8 Preservation through microfilm

§ 2-7-1 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY. Any of the following village entities having custody of a village 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 village designated under § 2-7-3 below or otherwise responsible by law to keep and preserve any village records or file, deposit or keep the records in his or her office, or is lawfully in possession or entitled to possession of the public records and who is required by this section to respond to requests for access to the records.

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), and computer printouts. **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.

§ 2-7-2 DUTY TO MAINTAIN RECORDS.

(A) Except as provided under § 2-7-7 below, each officer and employee of the village 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 the receipt with the Village Clerk. If a vacancy occurs before a successor is selected or qualifies, the records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to the successor upon the latter's receipt.

§ 2-7-3 LEGAL CUSTODIAN(S).

(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 an employee of his or her staff to act as the legal custodian.

(B) Unless otherwise prohibited by law, the Village Clerk or his or her designee shall act as legal custodian for the Village Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Village Board.

(C) For every authority not specified in divisions (A) and (B) above, 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 the absence of his or her designee.

(E) The Village Clerk, or in his or her absence or disability or in case of vacancy, the Deputy Clerk, is hereby designated the legal custodian of all village records.

§ 2-7-4 PUBLIC ACCESS TO RECORDS.

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

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

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

(D) A requester shall be permitted to use facilities comparable to those available to village 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 to defray the cost of locating and copying records as follows:

(1) Because the Village of Almond does have copying equipment, the cost of reproducing records shall be the actual cost of having the records copied and the actual labor costs of having the copies made by village employees. The cost shall not exceed the actual, necessary and direct cost of reproduction;

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

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

(4) If mailing or shipping is necessary, the actual cost thereof shall also be charged;

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

(6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if the estimate exceeds \$5;

(7) Elected and appointed officials of the Village of Almond shall not be required to pay for public records they may reasonably require for the proper performance of their official duties; and

(8) 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.

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

(H) No original public records of the village shall be removed from the possession of the legal custodian.

§ 2-7-5 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 Wis. Stats. § 19.37. 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 § 2-7-4(F)(6) above. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

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

(C) A request for a record may be denied as provided in § 2-7-6 below. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stats. § 19.37(1), or upon application to the attorney general or a district attorney.

§ 2-7-6 LIMITATIONS ON RIGHT TO ACCESS.

(A) As provided by Wis. Stats. § 19.36, 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, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and

(4) Pursuant to Wis. Stats. § 905.08, a record or any portion of a record containing information qualifying as a common law trade secret. **TRADE SECRETS** are defined as unpatented, secret, commercially valuable plans, appliances, formulas or processes, which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.

(B) As provided by Wis. Stats. § 43.30, 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 Village 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 request 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 Wis. Stats. § 19.85(1)(a), records of current deliberations after a quasi-judicial hearing;

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

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

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

(6) Pursuant to Wis. Stats. § 19.85(1)(f), 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 the history or data;

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

(8) Pursuant to Wis. Stats. § 19.85(1)(h), requests for confidential written advice from an ethics board, and records of advice given by the ethics board on the 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 Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If in the judgment of the custodian and the Village Attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

§ 2-7-7 DESTRUCTION OF RECORDS.

(A) Village officers may destroy the following non-utility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. Ch. 442, but not less than 7 years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Wis. Stats. § 16.61(3)(e), and then after a shorter period:

- (1) Bank statements, deposit books, slips and stubs;
- (2) Bonds and coupons after maturity;
- (3) Canceled checks, duplicates and check stubs;
- (4) License and permit applications, stubs and duplicates;
- (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund;
- (6) Receipt forms;
- (7) Special assessment records; and
- (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(B) Village officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal

audit or an auditor licensed under Wis. Stats. Ch. 442, subject to State Public Service Commission regulations, but not less than 7 years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Wis. Stats. § 16.61(3)(e), and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after 2 years:

- (1) Contracts and papers relating thereto;
- (2) Excavation permits; and
- (3) Inspection records.

(C) Village officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than 7 years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Wis. Stats. § 16.61(3)(e), and then after such a shorter period:

- (1) Contracts and papers relating thereto;
- (2) Correspondence and communications;
- (3) Financial reports other than annual financial reports;
- (4) Justice dockets;
- (5) Oaths of office;
- (6) Reports of boards, commissions, committees and officials duplicated in the Village Board proceedings;
- (7) Election notices and proofs of publication;
- (8) Canceled voter registration cards;
- (9) Official bonds;
- (10) Police records other than investigative records; and
- (11) Resolutions and petitions.

(D) Unless notice is waived by the State Historical Society, at least 60 days' notice shall be give the State Historical Society prior to the destruction of any record as provided by Wis. Stats. § 19.21(4)(a).

(E) Any tape recordings of a governmental meeting of the village may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

§ 2-7-8 PRESERVATION THROUGH MICROFILM.

Any village officer, or the director of any department or division of village government may, subject to the approval of the Village Board, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. The records shall meet the standards for photographic reproduction set forth in Wis. Stats. § 16.61(7)(a) and (b), and shall be considered original records for all purposes. The records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of §§ 2-7-4 through 2-7-6 above.