

**VILLAGE OF MCFARLAND  
ORDINANCE 2024-11**

**AN ORDINANCE SPLITTING THE OFFICES OF CLERK AND TREASURER.**

**PURPOSE**, to split the offices of Clerk and Treasurer.

**SPONSOR**, Administrator Cassandra Suettinger.

**RECOMMENDED REFERRAL**, None.

**PUBLIC HEARING**, None.

**NOW THEREFORE**, be it ordained by the Village Board of the Village of McFarland, in the State of Wisconsin, as follows:

**SECTION 1:**        **AMENDMENT** “41-5 Certified Copy Of Official Map” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**41-5 Certified Copy Of Official Map**

There shall be a certified copy of the Official Map described in Section 41-1(c). The certified copy shall be kept in the office of the Village Clerk-Treasurer and shall be available for the inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Chapter and shall show the date of adoption of the ordinance from which this Chapter is derived and shall be signed by the Village President and countersigned by the Village Clerk-Treasurer. Thereafter no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto, bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Village President and countersigned by the Village Clerk-Treasurer.

(Code 1998, § 14-2-5; Ord. No. 2003-02, § 180, 1-27-2002)

**SECTION 2:**        **AMENDMENT** “41-6 Map To Be Filed With Register Of Deeds” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

#### 41-6 Map To Be Filed With Register Of Deeds

The Village Clerk-Treasurer shall be responsible immediately upon adoption of the Official Map or any amendment thereto for recording a true copy of the amended Official Map with the register of deeds.

(Code 1998, § 14-2-6; Ord. No. 2003-02, § 181, 1-27-2002)

**SECTION 3:            AMENDMENT “56-36 Submission Of Preliminary Plat” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

#### 56-36 Submission Of Preliminary Plat

- (a) *Submission.* Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and complete an application form prescribed by the Community Development Department. The subdivider shall submit 20 copies of the Preliminary Plat. The Preliminary Plat shall be prepared in accordance with this Chapter, and the subdivider shall file copies of the Preliminary Plat and the application as required by this Section with the Village Clerk-Treasurer at least 20 days prior to the meeting of the Plan Commission at which action is desired. The Village Clerk-Treasurer shall submit a copy of the Preliminary Plat to the Plan Commission, the Village Engineer, the Community Development Department and the Department of Public Works for review and written report of their recommendations and reactions to the proposed plat.
- (b) *Public improvements, plans and specifications.* Simultaneously with the filing of the Preliminary Plat, the owner shall file with the Village Clerk-Treasurer five complete sets of engineering reports and plans for the construction of any public improvements required by this Chapter, specifically addressing sewer and water service feasibility, drainage facilities, traffic patterns, typical street cross sections, erosion control plans, pavement design and other improvements necessary in the Subdivision.
- (c) *Property owners association; restrictive covenants.* A draft of the legal instruments and rules for proposed property owners associations, when the subdivider proposes that common property within a Subdivision would be either owned or maintained by such an organization of property owners pursuant to Wis. Stats. § 236.293, and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the Preliminary Plat with the Village Clerk-Treasurer.
- (d) *Affidavit.* The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that the surveyor has fully complied with the provisions of this Chapter.
- (e) *Supplementary data to be filed with Preliminary Plat.* The following shall also be filed with the Preliminary Plat:
  - (1) *Use statement.* A statement of the proposed use of lots stating type of

residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population;

- (2) *Zoning changes.* If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and
  - (3) *Area plan.* Where the subdivider owns property adjacent to that which is being proposed for the Subdivision, the Plan Commission and/or Village Board may require that the subdivider submit a Preliminary Plat of the remainder of the property so as to show the possible relationships between the proposed Subdivision and future Subdivision. In any event, all Subdivisions must be shown to relate well with existing or potential adjacent Subdivisions.
- (f) *Street plans and profiles.* The subdivider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed Subdivision when requested.
- (g) *Soil testing.* The subdivider may be required to provide a preliminary soils report, listing the types of soil in the proposed Subdivision, their effect on the Subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in Section 56-7, the Village Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.
- (h) *Referral to other agencies.*
- (1) The subdivider shall, within two days after filing with the Village, transmit two copies to the County Planning Agency, two copies to the Director of the Planning Function in the Wisconsin Department of Administration, additional copies to the Director of the Planning Function for retransmission of two copies each to the Wisconsin Department of Transportation if the Subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Commerce if the Subdivision is not served by the public sewer and provision for such service has not been made, and an adequate number of copies to the Plan Commission. The subdivider shall file with the Village Clerk-Treasurer an affidavit indicating full compliance with the requirement of filing with objecting agencies. The County Planning Agency, the Wisconsin Department of Administration, the Wisconsin Department of Transportation and the Wisconsin Department of Commerce shall be hereinafter referred to as objecting agencies.
  - (2) Within 20 days of the date of receiving the copies of the plat, any state or county agency having authority to object under Subsection (h)(1) of this Section shall notify the subdivider and all approving or objecting authorities of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or, if all objections have been satisfied, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The plat shall not be approved or deemed approved until any objections have been satisfied. If the objecting agency fails to act within the 20 day limit it shall be deemed to

have no objection to the plat.

- (3) In lieu of the procedure under Subsection (h)(1) of this Section, the subdivider or the subdivider's agent may submit the original plat to the Wisconsin Department of Administration, which shall forward two copies to each of the agencies authorized to object. The Wisconsin Department of Administration shall have the required number of copies made at the subdivider's expense. Within 20 days of the date of receiving the copies of the plat, any agency having authority to object shall notify the subdivider, and all agencies having the authority to object, of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the Wisconsin Department of Administration. After each agency and the Wisconsin Department of Administration have certified that they have no objection or that their objections have been satisfied, the Wisconsin Department of Administration shall so certify on the face of the plat. If an agency fails to act within 20 days from the date of the receipt of copies of the plat, and the Wisconsin Department of Administration fails to act within 30 days of receipt of the original plat, it shall be deemed that there are no objections to the plat and, upon demand, it shall be so certified on the face of the plat by the Wisconsin Department of Administration.

- (i) *Drafting standards.* The subdivider shall submit to the Village Clerk-Treasurer and to those agencies having the authority to object to plats under provisions in Wis. Stats. Ch. 236 copies of a Preliminary Plat (or Certified Survey Map) based upon an accurate exterior boundary survey by a registered land surveyor that shall show clearly the proposed Subdivision at a scale of not more than one inch per 100 feet having two-foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements that the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

(Code 1998, § 14-1-31; Ord. No. 99-11, §§ 7—10, 8-23-1999; Ord. No. 2003-02, §§ 151—155, 1-27-2002)

**SECTION 4:            AMENDMENT “56-37 Preliminary Plat Review And Approval” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

##### 56-37 Preliminary Plat Review And Approval

- (a) *Plan commission review.* After review of the Preliminary Plat and negotiations with the subdivider on changes deemed advisable and the kind and extent of public

improvements that will be required, the Plan Commission shall, within 60 days, or within such time as extended by agreement with the subdivider of its submission, approve, approve conditionally, or reject the plat. The subdivider shall be notified in writing of any conditions for approval of the reasons for rejection. Such action of the Plan Commission shall be submitted to the Village Board for approval and the subdivider shall be notified in writing of any changes or modifications in the action of the Plan Commission and the reasons therefor.

- (b) *Public hearing.* The Village Clerk-Treasurer shall schedule a public hearing on the Preliminary Plat before the Plan Commission. The Village Clerk-Treasurer shall give notice of the Plan Commission's review and public hearing on the Preliminary Plat or Certified Survey Map by listing it as an agenda item in the Plan Commission's meeting notice published in the official Village newspaper. The notice shall include the name of the applicant, the address of the property in question and the requested action. Property owners within 200 feet of the proposed land division shall receive written notice of the public hearing.
- (c) *Board action.* After receipt of the Plan Commission's recommendation, the Village Board shall, within 90 days of the date the plat was filed with the Village Clerk-Treasurer approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Village Board to act within 90 days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat. The Village Clerk-Treasurer shall communicate to the subdivider the action of the Village Board. If the Preliminary Plat is approved, the Village Clerk-Treasurer shall endorse it for the Village Board.
- (d) *Effect of Preliminary Plat approval.* Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within 36 months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, the Final Plat shall be entitled to approval. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Plan Commission and Village Board at the time of its submission.
- (e) *Preliminary Plat amendment.* Should the subdivider desire to amend the Preliminary Plat as approved, the subdivider may resubmit the amended plat, which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Village Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

(Code 1998, § 14-1-32; Ord. No. 99-11, § 11, 8-23-1999; Ord. No. 2003-02, §§ 156, 157, 1-27-2002; Ord. No. 2010-23, § 1, 11-22-2010)

**SECTION 5:****AMENDMENT** “56-38 Final Plat Review And Approval” of the Village of McFarland Municipal Code is hereby *amended* as follows:

## AMENDMENT

### 56-38 Final Plat Review And Approval

#### (a) *Filing requirements.*

- (1) The subdivider shall prepare a Final Plat and complete an application form prescribed by the Community Development Department in accordance with this Chapter and shall file 20 copies of the Plat and the application with the Village Clerk-Treasurer at least 15 days prior to the meeting of the Plan Commission at which action is desired. The Village Clerk-Treasurer shall give notice of the Plan Commission's meeting in the manner prescribed in Section 56-37(a). The owner or subdivider shall file 20 copies of the Final Plat not later than 24 months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Village. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Village Attorney may require showing title or control in the applicant.
- (2) The subdivider shall, within two days after filing with the Village, transmit two copies to the County Planning Agency, two copies to the Director of the Planning Function in the Wisconsin Department of Administration, additional copies to the Director of the Planning Function for transmission of two copies each to the Wisconsin Department of Transportation if the Subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Commerce if the Subdivision is not served by a public sewer and provision for service has not been made, and the original Final Plat and adequate copies to the Plan Commission. The subdivider shall file with the Village Clerk-Treasurer an affidavit indicating full compliance with the requirement of filing with objecting agencies. The County Planning Agency, the Wisconsin Department of Administration, the Wisconsin Department of Transportation, and the Wisconsin Department of Commerce shall be hereinafter referred to as objecting agencies.
- (3) The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Wis. Stats. § 236.12(2). The Zoning Administrator, Village Engineer or Village Attorney shall examine the Final Plat and provide a conclusion as to whether the Final Plat conforms substantially to the Preliminary Plat with a recommendation on approval of the Final Plat. The conclusions and recommendations shall be made a part of the record of the proceedings where the Final Plat is being considered.
- (4) Simultaneously with the filing of the Final Plat or map, the owner shall file with the Village Clerk-Treasurer 12 copies of the final plans and specifications of public improvements required by this Chapter, and a signed copy of the

developer's contract required by Section 56-104.

- (5) The Village Clerk-Treasurer shall refer two copies of the Final Plat to the Plan Commission, one copy to the Village Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report may be referred to the Village Attorney for examination and report. The Village Clerk-Treasurer shall also refer the final plans and specifications of public improvements to the Village Engineer for review. The recommendations of the Plan Commission and Village Engineer shall be made within 30 days of the filing of the Final Plat. The Village Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if the Village Engineer finds them satisfactory, shall so certify in writing to the Plan Commission. If the plat or map or the plans and specifications are not satisfactory, the Village Engineer shall return them to the owner and so advise the Plan Commission.

**(b) *Plan Commission review.***

- (1) The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components, which may affect it and shall recommend approval, conditional approval or rejection of the Plat to the Village Board.
- (2) The objecting state and county agencies shall, within 20 days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections, except that the Wisconsin Department of Administration has 30 days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Village. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the Plat.
- (3) If the Final Plat is not submitted within 24 months of the last-required approval of the Preliminary Plat, the Village Board may refuse to approve the Final Plat.
- (4) The Plan Commission shall, within 30 days of the date of filing of the Final Plat with the Village Clerk-Treasurer, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Village Board. The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information.

**(c) *Village Board review and approval.***

- (1) The Village Board shall, within 60 days of the date of filing the original Final Plat with the Village Clerk-Treasurer, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Village Board may not inscribe its approval on the Final Plat unless the Village Clerk-Treasurer certifies on the face of the Plat that the copies were forwarded to objecting agencies as

required herein, the date thereof and that no objections have been filed within 20 days or, if filed, have been met.

- (2) The Village Board shall, when it determines to approve a Final Plat, give at least ten days' prior written notice of its intention to the Village Clerk-Treasurer of any municipality within 1,000 feet of the Final Plat.
  - (3) Failure of the Village Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (d) *Recordation.* After the Final Plat has been approved by the Village Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Village Clerk-Treasurer shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the county Register of Deeds. The Register of Deeds cannot record the Plat unless it is offered within six months after the date of last approval and within 24 months after the first approval.
- (e) *Copies.* The subdivider shall file eight copies of the Final Plat with the Village Clerk-Treasurer for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files.
- (f) *Partial platting.* The Final Plat may, if permitted by the Village Board, constitute only that portion of the approved Preliminary Plat, which the subdivider proposes to record at the time.
- (g) *Plats within the extraterritorial plat approval jurisdiction.* When the land to be subdivided lies within 1 1/2 miles of the corporate limits of the Village, the subdivider shall proceed as specified in Sections 56-37 and 56-38, except:
- (1) Transmittal responsibility lies with the Village Clerk-Treasurer, Town Clerk, or to whomever the plat is first submitted; and the subdivider shall indicate which one in the subdivider's application.
  - (2) Approval agencies include the Plan Commission or Village Board, the town board of the town within which the Subdivision is located and the Dane County Zoning and Natural Resources Committee; the subdivider shall comply with the land division ordinances of these agencies.
  - (3) After approval, the subdivider may proceed with the installation of such improvements and under such regulations as the town board of the town within whose limits the plat lies may require. Wherever connection to any Village utility is desired, permission for such connection shall be approved by the Village Board.
  - (4) All improvement requirements, specified by the Town Board or any special improvement district in matters over which they have jurisdiction, shall be met before filing of the Final Plat.

(Code 1998, § 14-1-33; Ord. No. 99-11, §§ 12—16, 8-23-1999; Ord. No. 2003-02, §§ 158—165, 1-27-2002; Ord. No. 2010-23, § 2, 11-22-2010)

**SECTION 6:            AMENDMENT “56-39 Certified Survey Map” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**56-39 Certified Survey Map**

- (a) *Use of Certified Survey Map.* When it is proposed to divide land into at least two but no more than four parcels or building sites, any one of which is 35 acres in size or less, or when it is proposed to create by land division not more than four parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of a block, lot or outlot, the subdivider shall prepare a Certified Survey Map in accordance with this Chapter and shall file 20 copies of the map and the letter of application with the Village Clerk-Treasurer at least 20 working days prior to the meeting of the Plan Commission at which action is desired.
- (b) *Referral to Plan Commission.* The Village Clerk-Treasurer shall, within two normal work days after filing, transmit the copies of the map and letter of application to the Plan Commission.
- (c) *Review by other Village agencies.* The Plan Commission shall transmit a copy of the map to all affected Village boards, authorities, committees, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission within ten days from the date the map is filed. The map shall be reviewed by the Plan Commission for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans, comprehensive plan components and neighborhood plans.
- (d) *Review and approval.* Following public hearing by the Plan Commission in the manner used for Preliminary Plats, the Plan Commission shall approve, approve conditionally and thereby require resubmission of a corrected Certified Survey Map or reject such Certified Survey Map within 60 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the Plan Commission shall cause the Village Clerk-Treasurer to so certify on the face of the original map and return the map to the subdivider.
- (e) *Recordation.* The subdivider shall record the map with the County Register of Deeds within 30 days of the approval.
- (f) *Copies.* The subdivider shall file five copies of the recorded Certified Survey Map with the Village Clerk-Treasurer for distribution to the Village Engineer, Building Inspector, Village Assessor and other affected departments for their files.

(Code 1998, § 14-1-34; Ord. No. 99-11, § 17, 8-23-1999; Ord. No. 2003-02, §§ 166—169, 1-27-2002)

**SECTION 7:        AMENDMENT “56-40 Replat” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**56-40 Replat**

- (a) Except as provided in Wis. Stats. § 70.27(1), when it is proposed to Replat a recorded Subdivision, or part thereof, so as to change the boundaries of a recorded Subdivision, or part thereof, the subdivider or person wishing to Replat shall vacate or alter the recorded Plat as provided in Wis. Stats. §§ 236.40—236.44. The subdivider or person wishing to Replat shall then proceed, using the procedures for Preliminary and Final Plats.
- (b) The Village Clerk-Treasurer shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a Replat of lands within the Village is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed Replat.
- (c) Where lots are more than double the minimum size required for the applicable zoning district, the Plan Commission may require that such lots be arranged so as to allow resubdivision of such parcels into normal lots in accordance with the provisions of the Chapter.

(Code 1998, § 14-1-35; Ord. No. 2003-02, § 170, 1-27-2002)

**SECTION 8:        AMENDMENT “56-105 Required Construction Plans; Village Review; Inspections” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**56-105 Required Construction Plans; Village Review; Inspections**

- (a) *Engineering reports, construction plans and specifications.* As required by Section 56-36, engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat unless waived by the Village Engineer. At the Final Plat stage, construction plans for the required improvements conforming in all respects with the standards of the Village Engineer and the ordinances of the Village shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain the engineer's seal. Such plans, together with the quantities of construction

items, shall be submitted to the Village Engineer for approval and for an estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the Final Plat with the Village Clerk-Treasurer, or as soon thereafter as practicable, copies of the construction plans and specifications shall be furnished for the following public improvements:

- (1) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
  - (2) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
  - (3) Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
  - (4) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
  - (5) Erosion Control Plans prepared in compliance with the Village's Erosion Control Ordinance in Chapter 8, Article XVII.
  - (6) Stormwater Management Plan prepared in compliance with the Village's Stormwater Management Ordinance in Chapter 8, Article XVIII.
  - (7) Landscaping plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
  - (8) Additional special plans or information as required by Village officials.
- (b) *Action by the Village Engineer.* The Village Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent Village ordinances and design standards recommended by the Village Engineer and approved by the Village Board. If the Village Engineer rejects the plans and specifications, the Village Engineer shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the Village Engineer shall approve the plans and specifications for transmittal to the Village Board. The Village Board shall approve the plans and specifications before the improvements are installed and construction commenced.
- (c) *Other requirements.*
- (1) *Approval by Village Engineer.* Development agreement and specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work, shall be subject to the approval of the Village Engineer.
  - (2) *Governmental units.* Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this Section.
  - (3) *Plats outside the corporate limits.* Before final approval by the Village of any plat located outside the corporate limits of the Village, but within the plat approval jurisdiction of the Village, the subdivider shall give evidence that the subdivider has complied with all street and utility requirements of the town in which the land being platted is located.
  - (4) *Survey monuments.* Before final approval of any plat within the Village or its

extraterritorial jurisdictional limits, the subdivider shall install survey monuments placed in accordance with the requirements of Wis. Stats. § 236.15, and as may be required by the Village Engineer.

(d) *Construction and inspection.*

- (1) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Village Engineer upon receipt of all necessary permits and in accordance with the construction methods of this Chapter. Building permits shall not be issued until all improvements required by this Chapter are satisfactorily completed.
- (2) Construction of all improvements required by this Chapter shall be completed within two years from the date of approval of the Preliminary Plat by the Village Board, unless good cause can be shown for the Village Board to grant an extension.
- (3) During the course of construction, the Village Engineer shall make, or cause to be made, such inspections as the Village Board deems necessary to ensure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Village for such inspections. This fee shall be the actual cost to the Village of inspectors, engineers and other parties necessary to ensure satisfactory work.

(e) *Record plans.* After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three copies of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the Village Engineer shall require. These plans shall be prepared in any material or electronic format capable of clearly legible reproduction in a form satisfactory to the Village Engineer and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.

(Code 1998, § 14-1-52)

**SECTION 9:**        **AMENDMENT** “56-107 Curb And Gutter” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**56-107 Curb And Gutter**

After the installation of all utility and stormwater drainage improvements, the subdivider shall construct concrete curbs and gutters in accordance with plans and standard specifications approved by the Village Board, on file with the Village Clerk-Treasurer. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

(Code 1998, § 14-1-54; Ord. No. 2003-02, § 171, 1-27-2002)

**SECTION 10:**            **AMENDMENT** “56-112 Other Utilities” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**56-112 Other Utilities**

- (a) The subdivider shall cause gas, electrical power, cable television and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the Subdivision.
- (b) The subdivider shall cause gas, electric power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the Subdivision or Certified Survey Map. All new electrical distribution, cable television and telephone lines from which lots are individually served shall be underground unless the Village Board specifically allows overhead poles for the following reasons:
  - (1) Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical;  
or
  - (2) The lots to be served by said facilities can be served directly from existing overhead facilities.
- (c) Plans indicating the proposed location of all gas, cable television, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Village Board and such map shall be filed with the Village Clerk-Treasurer.

(Code 1998, § 14-1-59; Ord. No. 2003-02, § 172, 1-27-2002)

**SECTION 11:**            **AMENDMENT** “56-119 Street Trees Plan” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**56-119 Street Trees Plan**

- (a) *Plan required.* Prior to recording the Final Plat, the subdivider shall submit a tree and shrub planting plan for street terraces, parkways, boulevards, and cul-de-sac approved by the Village Forester in conformance with Chapter 59, Article II. Trees and shrubs shall be planted at the time and in the manner determined by the Village Board with the cost of such plantings to be borne by the subdivider.

- (b) *Deposit required.* Following the approval of the Final Plat by the Village Board and prior to the signing of the plat by the Village President and Village Clerk-Treasurer, the subdivider shall deposit sufficient money in the Village Clerk-Treasurer's office to cover the cost of completing the plantings in conformity with the tree and shrub planting plan. The Village Forester will then cause the completion of the plantings during the next season, either spring or fall, following acceptance of the plat's required improvements by the Village. The amount of such deposit shall be established by the Village Forester based on anticipated actual costs of furnishing and installing said plantings. All said money deposited in the Village Clerk-Treasurer's office shall be kept in a separate account to be used solely for the purposes set forth in this Section.

(Code 1998, § 14-1-66; Ord. No. 2003-02, § 173, 1-27-2002; Ord. No. 2014-01, § 3, 3-31-2014)

**SECTION 12:            AMENDMENT "56-140 Specifications For Preparation, Construction And Dedication Of Streets And Roads" of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

#### 56-140 Specifications For Preparation, Construction And Dedication Of Streets And Roads

(a) *General requirements.*

- (1) *Construction standards.* All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate Sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, and this Chapter, whichever is more restrictive. The design requirements of this Section and Section 56-139 shall be applicable to all streets and roads that are to be dedicated to the Village, regardless of whether such streets or roads are part of a new Subdivision or land division.
- (2) *Project costs.* All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant. This includes any expense incurred by the Village in the preparation of plans and review and inspection of plans and construction.
- (3) *Preliminary consultation.* Prior to the design, preparation and construction of any roadway to be dedicated to the Village, the applicant shall notify the Village Clerk-Treasurer. An on-site meeting will then be arranged to be attended by the Village Engineer and the applicant. Plans must be provided in order for the Village Engineer to check the design and drainage.
- (4) *Material slips.* Copies of material slips for all materials furnished for the road construction projects shall be delivered to the Village before the Village approves the final construction.

(5) *Required inspections.* The Village Engineer shall be contacted for required inspections after the following phases of construction:

- a. Subbase grading;
- b. Crushed aggregate base course; and
- c. Bituminous surface course.

Any deficiencies found by the Village Engineer shall be corrected before proceeding to the next phase of construction.

(6) *Tests of materials.* The Village reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.

(7) *Pavement samples.* Samples of bituminous concrete will be taken by the Village during pavement construction operations for purposes of determining that the material meets specifications.

(b) *Construction standards.* All streets and highways constructed in the Village or to be dedicated to the Village shall fully comply with the Village Standard Specifications:

(1) *Grading.*

- a. With the submittal of the Final Plat, the subdivider shall furnish drawings that indicate the existing and proposed grades of roads, streets and alleys shown on the plat.
- b. Proposed grades will be reviewed by the Village Engineer for conformance with the Village Standard Specifications and good engineering practice. Street grades require the approval of the Village Board after receipt of the Village Engineer's recommendations.
- c. After installation of temporary block corner monuments by the subdivider and the establishment of street grades by the Village Engineer, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots, followed by surfacing required by this Chapter. After installation of water and sewer facilities, the roadway shall be surfaced.
- d. In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line.
- e. The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation.
- f. The Village Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved.

(Code 1998, § 14-1-71; Ord. No. 2003-02, § 174, 1-27-2002)

**SECTION 13:            AMENDMENT “56-238 Administrative And Other Fees” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**56-238 Administrative And Other Fees**

- (a) *General.* The subdivider shall pay the Village all fees as hereinafter required and at the times specified before being entitled to recording of a plat or Certified Survey Map.
- (b) *Engineering fee.* The subdivider shall pay a fee equal to the actual cost to the Village for all engineering work incurred by the Village in connection with the plat or Certified Survey Map, including inspections required by the Village. The subdivider shall pay a fee equal to the actual cost to the Village for such engineering work and inspection as the Village Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Village or any other governmental authority. Engineering work shall include the preparation of construction plans, standard specifications, inspections and administration of the engineering work.
- (c) *Administrative fee.* The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work that may be undertaken by the Village in connection with the plat or Certified Survey Map:
  - (1) *Preliminary plat review fee.*
    - a. The subdivider shall pay the review fee established by the Village Board from time to time and provided in Appendix A to this Code plus the determined amount per lot within the Preliminary Plat to the Village ~~Clerk~~-Treasurer at the time of first application for approval of any Preliminary Plats to assist in defraying the cost of review.
    - b. The reapplication fee established by the Village Board from time to time and provided in Appendix A to this Code shall be paid to the Village ~~Clerk~~-Treasurer at the time of reapplication for approval of any Preliminary Plat that has previously been reviewed.
  - (2) *Final plat review fees.*
    - a. The subdivider shall pay the fee established by the Village Board from time to time and provided in Appendix A to this Code plus the determined amount per lot within the Final Plat to the Village ~~Clerk~~-Treasurer at the time of first application for Final Plat approval of said plat to assist in defraying the cost of review.
    - b. The reapplication fee as established by the Village Board from time to time and provided in Appendix A to this Code shall be paid to the Village ~~Clerk~~-Treasurer at the time of a reapplication for approval of any Final Plat that has previously been reviewed.
    - c. The subdivider shall pay the Village a fee for the review of the development agreement for each phase of the plat as established by

the Village Board from time to time and provided in Appendix A to this Code.

- (3) *Certified Survey Map review fee.* The subdivider shall pay the review fee established by the Village Board from time to time and provided in Appendix A to this Code to the Village Clerk-Treasurer at the time of first application for approval of any Certified Survey Map to assist in defraying the cost of review.
- (d) *Condominium development review fee.* The developer shall pay a review fee as established by the Village Board from time to time and provided in Appendix A to this Code for each unit shown on a condominium plat, less an additional determined amount for each lot shown on a Preliminary Plat or Certified Survey Map for the same project.
- (e) *Objecting agency review fees.* The subdivider shall directly transmit all fees required for state agency review at the time of application. Said review fees shall be retransmitted to the proper state review agency by the Village Clerk-Treasurer. Said fees shall be applicable, where appropriate, to review fees required by the Wisconsin Department of Administration, Wisconsin Department of Transportation, Wisconsin Department of Commerce and the Wisconsin Department of Natural Resources.
- (f) *Computerized mapping fee.* Upon approval of a land division, plat or a condominium, the developer shall pay a fee, as established by the Village Board from time to time and provided in Appendix A to this Code, equal to the cost to the Village for digitizing the mapping of the approved land division, plat or condominium and the public improvements connected therewith. This digitizing and mapping fee shall apply to:
  - (1) All additions and/or changes to parcel boundaries;
  - (2) Public rights-of-way;
  - (3) Access, stormwater and/or utility easements;
  - (4) The following utility systems: sanitary sewer, stormwater and public water supply.
- (g) *Escrow deposits.*
  - (1) Applicants for land division or condominium review shall be responsible to pay the actual cost of staff and consultant review. Consultant costs shall be the actual costs, as billed to the Village, of the land division. Upon application, the applicant shall deposit the amount established by the Village Board from time to time and specified under Appendix A to this Code to be held in escrow upon which the Village shall draw to pay for said costs as they are incurred during the course of reviewing the application. Itemized statements reflecting the amounts drawn from the deposit shall be sent to the applicant every 30 days. In the event that the escrow deposit has been drawn down to 25 percent of the required amount, if requested by the Village, the applicant shall replenish the escrow deposit to its original amount within 15 days of the Village's request. If any funds remain in the escrow deposit following final determination of the application, such remaining funds shall be returned to the applicant within 15 days of the determination together with an accounting of the deposits and draws on the escrow.

(Code 1998, § 14-1-100; Ord. No. 98-20, §§ 8—11, 12-14-1998; Ord. No. 99-11, §§ 24—28, 8-23-1999; Ord. No. 2003-02, §§ 175—179, 1-27-2002; Ord. No. 2005-14, § 2, 8-22-2005; Ord. No. 2006-04, §§ 3—7, 2-13-2006; Ord. No. 2008-03, §§ 3—5, 2-25-2008)

**SECTION 14:**        **AMENDMENT** “62-62 Zoning Map” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 62-62 Zoning Map

- (a) The Village is hereby divided into zoning districts as shown upon a map designated as the Official Zoning Map of the Village of McFarland and made a part of this Chapter. This Official Zoning Map and all the notations, references and other information shown thereon are a part of this Chapter and shall have the same force and effect as if the matters and information set forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the Village Clerk-Treasurer.
- (b) The district boundaries shall be determined by measurement from and as shown on the Official Zoning Map; and in case of any question as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to the reasonable intent of this Chapter. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter-section or 16th-section lines; or the centerlines of streets, highways, railways or alleys.
- (c) The Official Zoning Map dated April 3, 2003, is hereby adopted as the Official Zoning Map. All further zoning changes made shall be by reference to this map.

(Code 1998, § 13-1-41; Ord. No. 2003-03, § 1(13-1-41), 3-24-2003)

**SECTION 15:**        **AMENDMENT** “62-67 PD Planned Development District” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 62-67 PD Planned Development District

- (a) *General requirements.*
  - (1) *Use regulations.* The uses allowable in this district are the uses approved as part of the general or detailed plan for particular sites that are placed in the Planned Development District.
  - (2) *Density and dimensional regulations.* This Section sets no prescribed density

or dimensional regulations in the Planned Development District.

- (3) *Off-street parking and loading.* There shall be no prescribed requirements for off-street parking and loading in the Planned Development District. However, in the review and approval of any general or detailed plan in a Planned Development District, due consideration shall be given to Subdivision IV of this Division of regulations and requirements for off-street parking and loading facilities for uses similar to those proposed in such plan.
- (4) *Standards.* The following standards shall apply in the review of all general or detailed plans proposed for the Planned Development District:
- a. The uses proposed in the planned development shall be in general conformance with the Village Comprehensive Plan.
  - b. The establishment, maintenance or operation of the uses proposed in the planned development shall not substantially impair or diminish the use, value and enjoyment of other properties within the neighborhood.
  - c. Traffic circulation into and within the development shall be designed to minimize traffic congestion and traffic hazards, provide for the accessibility of all uses and buildings and also provide for the safe and convenient movement of both vehicles and pedestrians.
  - d. The planned development shall incorporate environmental design considerations, including the preservation of topography, trees and ground cover, streams and natural bodies of waters, and other significant natural features and control of erosion and runoff in accord with the Village Erosion Control and Stormwater Management Ordinances.
  - e. The planned development shall provide for convenient and harmonious groups of buildings, structures and uses; and buildings shall be spaced and sited to ensure adequate safety, light, ventilation and privacy.
  - f. The following provisions shall apply:
    1. In a planned development for residential use, adequate open space and recreational areas shall be provided in appropriate locations, and all public and common open spaces shall be designed and located to provide safe and convenient access to residents.
    2. Planned Development District housing impacts on community resources in the same manner as other new developments, which are characterized by division of land into lots. In particular, the additional population density places demands upon Village parks and recreation areas. Accordingly, each dwelling unit newly established shall be required to dedicate land or provide fees in lieu of land, in accordance with the procedures set forth in Section 62-64.
  - g. The planned development will not adversely affect the ability of public agencies to provide school or other municipal services.
  - h. The width of street rights-of-way, width of paving, width and location

of street or other paving, outdoor lighting, location of sewer and water lines, provision for stormwater drainage or other similar environmental engineering considerations shall be based on a determination of the appropriate standards necessary to implement the specific function in the specific situation; provided, however, that in no case shall standards be less than those necessary to ensure the public safety and welfare as determined by the Village.

- i. The proponents of a Planned Development District application shall provide evidence satisfactory to the Village Board of its economic feasibility of available adequate financing and that it would not adversely affect the economic prosperity of the Village or the values of surrounding properties.
  - j. The proponents of a Planned Development District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance that each phase could be brought to completion in a manner that would not result in an adverse effect upon the community as a result of termination at that point.
- (5) *Minimum area.* A Planned Development District shall not be less than three acres of contiguous land under the same ownership. This Subsection shall not be interpreted to prohibit the post-development sale of all or part of an approved PD subject to the provision of this Section and all applicable statutes and Subdivision regulations.
- (6) *Subdivision review.* The applicable Subdivision review under Chapter 56 shall be carried out as an integral part of the review of a Planned Development District. The plan required must be submitted in a form that substantially satisfies requirements of the Subdivision regulations for the Preliminary and Final Plat approvals. Subdivision application may be submitted for the whole, a part, or parts of the overall planned development as indicated by phases in the detailed plan for staged development.
- (b) *Procedure for establishment of Planned Development Districts.* The provisions set forth in Division 62-II-4 of this Article shall apply for the establishment of any Planned Development District, provided the amendatory ordinance shall be considered only in conjunction with a general or detailed plan.
- (c) *Preapplication procedures.* Applicants are encouraged to seek preapplication, conceptual review of proposed plans by the Plan Commission. The Plan Commission is under no obligation to give a response to such submittals at the same meeting as they are presented. The Plan Commission is entitled to seek outside assistance and sources of critique. No responses by the Plan Commission or by individual Plan Commissioners shall bind the Plan Commission or the Village unless the response is on behalf of the Plan Commission, is in writing and is expressed as a binding response.
- (d) *Approval of general or detailed plan and adoption of zoning ordinance amendment.* In the event that the Village Board approves a general (or detailed) plan and adopts a zoning amendment creating a Planned Development District in connection with such

general (or detailed) plan, the requirements of the plan shall constitute the zoning regulations for the district and the zoning district maps shall be amended to show all lands included in such general (or detailed) plan as within the Planned Development District. In the approval of any general (or detailed) plan, the Village Board may stipulate any conditions or restrictions in the establishment, maintenance and operation of any uses proposed in such plan and may also require any guarantees, including the filing of a contract together with a surety, satisfactory in form to the Village Attorney and satisfactory in amount to the Village Engineer, with the Village to ensure that improvements will be installed and completed as proposed in the plan.

- (e) *Recording of approved general or detailed plans and zoning ordinance amendments.* Whenever the Village Board designates land as being within a Planned Development District, the Village Attorney shall record in the Office of the Register of Deeds of Dane County a facsimile copy of the approved general (or detailed) plan, together with a certified copy of the related zoning ordinance amendment and any other action taken thereon by the Village Board. The cost for preparing a facsimile copy of the general (or detailed) plan in recordable form and the recording fee shall be paid by the owners of the lands included in the general (or detailed) plan.
- (f) *Changes or modifications to general or detailed plans and zoning ordinance amendments.* Any approved general or detailed plan, together with the related zoning ordinance amendment, may be amended in whole or in part pursuant to the same procedure and subject to the same limitations by which general or detailed plans were approved and the zoning ordinance amended. However, minor modifications may be made by any general or detailed plan upon approval of the Village Plan Commission provided that such modifications shall be in general conformity with the approved general or detailed plan and shall not substantially change the concept of such approved plan. All approved minor modifications shall become a part of the approved general or detailed plan and shall be recorded as provided in Subsection (e) of this Section. The Plan Commission shall decide whether a proposed amendment is minor or major, with appeals made to the Village Board.
- (g) *Construction of building and establishment of uses.* No zoning or building permit shall be issued until the detailed plan and the related zoning ordinance amendment have been recorded as required above. Within one year of the date of recording of any detailed plan and the zoning ordinance, construction thereon must begin; and construction must be substantially completed throughout the project within three years of such date of recording, unless extensions are granted by the Village Board. If initial construction has not begun within one year of the date of recording or within the prescribed time period granted as an extension by the Village Board, the approval of the detailed plan and the related zoning ordinance amendment shall become null and void, and the zoning shall revert to the classification that applied prior to the approval of the PDD zoning. No occupancy of dwelling units shall occur until all public works that have been scheduled to be completed before occupancy are completed to the satisfaction of the Village.
- (h) *Procedure for establishment of the Planned Development District—General plan for staged development.*
  - (1) *Submittal of general plan.* The general plan shall contain any information and

representations deemed necessary by the Plan Commission and shall consist of a statement entitled "Planned Development District—General Plan, Statement of Owner's Intent and Description of Development," which shall include, without limitation, the following:

- a. A legal description describing all of the tract of land included in the proposed development.
- b. A statement indicating the nature of the applicant's interest in the land included in the proposed development.
- c. A statement describing the proposed development, including the character, method and operation of the development and a development schedule or timetable for construction.
- d. A statement as to the following data or graphic information referenced to a map or plan of the proposed development:
  1. The location and size of the site including dimensioned exterior boundaries, topography and other salient features, and existing buildings and structures, and also adjacent properties and streets, including all public utilities and public easements.
  2. The use and approximate location and bulk of buildings and structures, including number of stories and dimensions of buildings.
  3. The approximate location of vehicular and pedestrian facilities, such as streets, sidewalks and off-street parking areas, including approximate number of parking spaces.
  4. The approximate location of areas for public or common open spaces and for other public or semipublic uses.
  5. A tabulation of land areas for the different types of uses in relation to the total area.
  6. A tabulation of the gross floor areas of buildings by types of uses.
  7. A tabulation of the number of types of dwelling units.

(2) *Review of general plan.* The Plan Commission shall review the general plan and determine whether it complies with the standards set forth in Subsection (h)(1) of this Section. Following the review of the general plan, the Plan Commission shall forward the petition to the Village Board, together with a recommendation that the general plan be either approved as submitted, or approved with modifications or disapproved.

(3) *Approval of general plan.*

- a. In the event that the Village Board approves the general plan and adopts the related zoning ordinance amendment, the zoning district maps shall be amended to include all of the lands within the general plan as within the Planned Development District (general plan approved). However, no building construction shall be permitted in any portion of the approved general plan until a detailed plan prepared in accordance with the requirements hereunder has been approved by

the Village as provided below.

- b. In the event the Village Board fails to approve the general plan and ordinance, the Village Board shall communicate its objections back to the Plan Commission for reconsideration and further discussions.

(i) *Procedure for establishment of the Planned Development District—Detailed plan for staged development.*

(1) *Submittal of plan.* Within one year after the recording of the general plan and the copy of the related zoning ordinance amendment, a detailed plan for at least one stage of the general plan shall be filed with the Village Clerk-Treasurer, unless an extension is granted by such Village Board. The detailed plan shall contain any information and representation deemed necessary by the Plan Commission and shall consist of a statement entitled, "Planned Development District—Detailed Plan, Statement of Owner's Intent and Description of Development," which shall include without limitations, the following:

- a. A legal description describing all of the tract of land included in the proposed development, referenced to a locational map indicating the relationship of the tract to the total general plan.
- b. A statement indicating the nature of the applicant's interest in the land included in the proposed development.
- c. A statement describing the proposed development, including the character, method and operation of the development, and a development schedule or timetable for construction. Where the formation of organizations such as a homeowners' association is proposed, such statement shall include any agreements, bylaws or covenants which govern the organizational structure, use, maintenance and protection of the development and any of its common services, common open spaces or other common facilities.
- d. A statement as to the following data or graphic information referenced to a map of the proposed development:
  - 1. The location and size of the site, including dimensioned exterior boundaries, topography and other salient features, and existing buildings and structures, and also adjacent properties and streets.
  - 2. The use and location of all buildings or structures, including the architectural character and design of each building, the number of stories and dimensions of each building, and the dimensioned yards between buildings or structures and lot lines.
  - 3. The location of vehicular and pedestrian facilities, including dimensioned streets, walkways, access driveways, off-street parking spaces and loading berths, and refuse receptacle areas.
  - 4. The location and size of areas for public or common open

spaces and for other public and semi-public uses.

5. A grading plan, including any storm sewer system, a landscaping plan, and an erosion control plan.
6. A sanitary sewer and water distribution system plan.
7. A tabulation of land areas for the different uses in relation to the total tract area.
8. A tabulation indicating the number of buildings and the use and the total gross floor area for each building.
9. A tabulation indicating the number and types of dwelling units in each building.

**(2) Review of the detailed plan.**

- a. The Plan Commission shall review the detailed plan as a conditional use review and shall determine whether the plan complies with the standards set forth in Subsection (h)(1) of this Section and is in general conformance with the approved general plan. Following Plan Commission approval of a detailed plan, the Village Attorney shall record in the Office of the Register of Deeds of Dane County a facsimile copy of the approved detailed plan and a certified copy of the Plan Commission action approving the same. The costs for copies and recording shall be paid by the owners of land within the plan areas.
- b. The action of the Plan Commission on the proposed detailed plan shall be appealable to the Village Board. The Village Board shall consult with the Plan Commission before making its appeal decision, but in no case shall a detailed plan be approved that is out of conformity with a general plan approved.

**(3) Approval of detailed plan.** Once the detailed plan is approved, the zoning district maps shall be amended to include all of the lands within the detailed plan as Planned Development District—detailed plan approved.

- (j) *Planned Development District—Single-stage procedure.* Upon request by applicants and subject to Village Board concurrence, the general and detailed stages of plan review and approval can be combined. Under this option, the plan is submitted in detailed form and is processed as is a general plan.

(Code 1998, § 13-1-46; Ord. No. 2003-03, § 1(13-1-46), 3-24-2003)

**SECTION 16:            AMENDMENT “62-230 Home Occupations” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**62-230 Home Occupations**

- (a) *Intent.* The intent of this Section is to provide a means to accommodate a small family business without the necessity of a rezoning into a Commercial District. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated. Relocation of the business to an area that is appropriately zoned may be necessary.
- (b) *Accessory use.* Home occupations are determined to be an allowed accessory use in all Residential Districts. Permits are not required prior to engaging in such activities, but the following standards apply:
- (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or attached or detached garage;
  - (2) There shall be no exterior alterations which change the character thereof as a dwelling, nor shall there be any evidence of any kind visible from the exterior of the dwelling or other structure that will indicate it is being utilized in part for any purpose other than that of a dwelling or other allowed accessory use, other than those signs permitted in the district;
  - (3) No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structures located on the premises;
  - (4) The home occupation must not create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference, electrical emissions, any other nuisance not normally associated with the average residential use in the district, or other fire or safety hazards that are noticeably out of character with those produced by normal residential occupancy. Under no circumstances shall a kennel business qualify as a home occupation;
  - (5) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises, and traffic generated by the home occupation may not exceed that which is customary to residential occupancies in the neighborhood;
  - (6) The sale of goods from the location of the home occupation shall be limited to items produced on-site and the sale of Tupperware, Shaklee, Amway, and Avon products or other similar activities that are customarily conducted from a residence as determined by the Zoning Administrator. The direct sale of goods produced off-site other than those described above to the consumer from the dwelling is prohibited;
  - (7) A permitted home occupation shall not occupy more than 25 percent of the floor area of the dwelling;
  - (8) Persons employed by a home occupation shall be limited to resident family members and not more than one nonresident employee;
  - (9) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation;
  - (10) The home occupation must be clearly secondary and incidental to the residential use of the property;
  - (11) The home occupation must not unreasonably interfere with residential occupancy of other parcels in the neighborhood;
  - (12) Signage for the home occupation will be governed by the Village's sign

ordinance;

- (13) Garage sales as a type of home occupation are allowable in all Residential Districts, provided that not more than two are held on a single premises per year and that each such sale shall not exceed four days in duration;
  - (14) Day care is allowable as a home occupation on a residential premises. Conditional use approval may be required, however, if Wis. Stats. § 66.1017, or as it may be hereafter amended, applies;
  - (15) No on-site production shall be conducted that is typically only permitted in the industrial zoning districts;
  - (16) A kennel shall not qualify as a home occupation. Refer to Section 5-48(e) regarding kennel operations;
  - (17) Property owner's written permission is required as part of the compliance checklist required in Subsection (c) of this Section.
- (c) *Compliance checklist.* Notwithstanding the provisions listed in Subsections (a) and (b) of this Section, all who undertake allowed home occupations in Residential Districts shall complete and file a Compliance Checklist, in a form as approved by the Plan Commission and made available by the Village Clerk-Treasurer, prior to commencing the home occupation. This form shall be filed with the Village Clerk-Treasurer, who shall retain the form while the home occupation is in use. The filed Compliance Checklist shall be reviewed by the Zoning Administrator to determine compliance of the home occupation with this Code. Such form shall be signed by both the owner and/or occupier of the premises on which the home occupation takes place.

(Code 1998, § 13-1-163; Ord. No. 2003-03, § 1(13-1-163), 3-24-2003)

**SECTION 17:            AMENDMENT “62-363 Applications For Hearings” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

##### 62-363 Applications For Hearings

- (a) *Time of appeal.* Appeals shall be filed within 30 days after the receipt of the written decision or order from which the appeal is taken by filing in duplicate a notice of appeal with the Village Clerk-Treasurer. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal. Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day.
- (b) *Who may appeal.* Appeals or applications to the Board of Zoning Appeals may be made by:
  - (1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one year or more of the property for which relief is sought.

- (2) Any officer (other than the Zoning Administrator), department, board or bureau affected by a decision or order of the Zoning Administrator.
  - (3) Any person aggrieved and whose use and enjoyment of property within the Village is directly and adversely affected by a decision or order of the Building Inspector, Zoning Administrator or the requested Board of Zoning Appeals action.
- (c) *Appeal and application forms.* Every appeal or application shall be made upon forms furnished by the Village Clerk-Treasurer, which have been approved by the Board of Zoning Appeals. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the chair or Clerk of the Board of Zoning Appeals, which is necessary to inform the Board of Zoning Appeals of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- (d) *Filing appeal or application.* The appellant or applicant shall file the required appeal form in duplicate with the Village Clerk-Treasurer. The Village Clerk-Treasurer shall deliver one copy to the Zoning Administrator or other officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the Zoning Administrator or other officer or body responsible for the original determination shall transmit to the Clerk of the Board of Zoning Appeals all notes or papers relating to the order or decision from which the appeal is being taken.
- (e) *Fee.* All appeals and applications filed with the Village Clerk-Treasurer shall be accompanied by payment of a required fee as established by the Village Board from time to time and provided in Appendix A to this Code. If the appellant or applicant elects the contested case method, the appellant or applicant shall also pay the amount determined by the Board of Zoning Appeals to cover the additional administrative costs involved.
- (f) *Insufficient notice.* No appeal or application shall be considered by the Board of Zoning Appeals unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Village Clerk-Treasurer shall supply the applicant with the proper forms which must be filed within ten days, in addition to the 30 days specified in Subsection (a) of this Section, in order to be considered by the Board of Zoning Appeals.

(Code 1998, § 13-1-261; Ord. No. 2003-03, § 1(13-1-261), 3-24-2003; Ord. No. 2006-04, § 2, 2-13-2006; Ord. No. 2006-08, §§ 1, 2, 4-24-2006)

**State law reference(s)**—Board of appeals, Wis. Stats. § 62.23(7)(e).

**SECTION 18:**            **AMENDMENT** “62-364 Hearings” of the Village of McFarland Municipal Code is hereby *amended* as follows:

## AMENDMENT

### 62-364 Hearings

- (a) *Notice of hearing.* Notice of time, date and place of the hearing of an appeal or application shall be given in the following manner:
- (1) By certified mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken and the Village Clerk-Treasurer on behalf of the Plan Commission not less than ten days prior to the date of the hearing.
  - (2) In every case involving a variance, conditional use, exception, planned unit development or public utility exception, the Village Clerk-Treasurer shall mail notice to the owners of record of all land within the area included in the application and within 100 feet of any part of the building or premises affected not less than ten days prior to the hearing. Names and last-known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.
  - (3) By publication of a class 2 notice under Wis. Stats. Ch. 985.
  - (4) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than 15 days prior to the hearing.
  - (5) Notice of an application for a proposed special exception in a Shoreland-Wetland District shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten days prior to the hearing.
- (b) *Time of hearing, docketing.* Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefor and placed upon the calendar by the Clerk of the Board of Zoning Appeals. Cases docketed more than 15 days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed seven days or less prior to a regular meeting shall be scheduled by the Clerk of the Board of Zoning Appeals, or designee, for a hearing on the second regular meeting day thereafter unless otherwise directed by the chair.
- (c) *Appearances.* The appellant or applicant may appear in person or by agent or attorney. In the absence of an appearance for or against an appeal or application, the Board of Zoning Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.
- (d) *Oath.* Unless waived by the appellant or applicant and the chair, or as otherwise specifically provided in this Section, all witnesses shall be sworn before testifying by the chair or presiding officer.
- (e) *Compelling attendance of witnesses.* The chair, or, in the absence of the chair, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Clerk of the Board of Zoning Appeals not less than two days prior to the hearing except by special permission of the chair.
- (f) *Order of hearing.* Appeals and applications shall be heard in numerical order except for good cause shown.
- (g) *Hearing procedure.* All hearings shall be conducted in accordance with the following

procedure unless otherwise stipulated by the parties and approved by the chair:

- (1) The chair shall call each hearing to order.
  - (2) Opening statements may be delivered by the appellant or applicant followed by any opening statement from the Zoning Administrator or Village representative.
  - (3) The appellant or applicant shall first present its case followed by the Zoning Administrator or Village representative. Each witness shall be subject to cross-examination followed by the opportunity for re-direct testimony. Members of the Board of Zoning Appeals shall also be permitted to examine witnesses the timing of which shall be subject to the discretion of the chair.
  - (4) Rebuttal testimony shall be allowed subject to the scope of the matters raised by adverse parties.
  - (5) Evidence from any other aggrieved or interested parties, if any, shall be presented after the Zoning Administrator or Village representative's case in chief.
  - (6) The Board of Zoning Appeals may accept opinion testimony and written testimony from interested parties, which shall not be subject to cross-examination, however, any party may introduce any rebuttal testimony addressing any factual issues raised.
  - (7) Closing statements shall be heard after all evidence is taken.
  - (8) The Board of Zoning Appeals shall deliberate and decide the matter in accordance with Section 62-365.
- (h) *Evidence.* The Board of Zoning Appeals shall not be bound by common-law or statutory rules of evidence except for rules of privilege. The Board of Zoning Appeals shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(Code 1998, § 13-1-262; Ord. No. 2003-03, § 1(13-1-262), 3-24-2003; Ord. No. 2006-08, § 3, 4-24-2006; Ord. No. 2006-08, §§ 4, 5, 4-24-2006)

**State law reference(s)**—Board of appeals, Wis. Stats. § 62.23(7)(e).

**SECTION 19:****AMENDMENT** “62-365 Decision And Disposition Of Cases” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**62-365 Decision And Disposition Of Cases**

- (a) *Time of decision.* The Board of Zoning Appeals shall render its decision either at the

termination of the hearing or within 30 days thereafter and shall notify the parties in interest and the Zoning Administrator in writing of its decision.

- (b) *Form of decision.* The final disposition of an appeal or application shall be in the form of a written decision or order signed by the chair and Clerk of the Board of Zoning Appeals. Such decision shall state the reasons for the Board of Zoning Appeals' determination with findings of fact and conclusions of law and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the special exception, conditional use of variance. Copies of the decision shall be sent to the applicant, Village Clerk-Treasurer, on behalf of the Plan Commission and any Village committee involved.
- (c) *Vote required.* All orders or decisions of the Board of Zoning Appeals granting a variance, exception or conditional use or reversing any action or order of the administrator shall be made by a majority of the members present if a quorum exists.
- (d) *Conditions.* Variances or conditions imposed in any permit shall be stated in the decision or order embodying the Board of Zoning Appeals' decision and shall also be set forth in the building, conditional use or occupancy permit issued under that order by the Building Inspector. A permit shall be valid only as long as the conditions upon which it is granted are observed. Whenever the Board of Zoning Appeals grants an application or appeal affecting the use of any premises, shall authorization shall be deemed revoked unless the owner, occupant or agent shall, upon request, file with the Board of Zoning Appeals Secretary a written report certifying that all conditions or limitations imposed by the Board of Zoning Appeals have been conformed to and maintained. Variances, substitutions or conditional use permits approved by the Board of Zoning Appeals shall expire six months after issuance if the performance of work is required and substantial work has not commenced.
- (e) *Filing of decision.* Every order of decision of the Board of Zoning Appeals shall be immediately filed with the Clerk of the Board of Zoning Appeals who shall thereupon forward the decision to the Village Clerk-Treasurer and mail a copy to the applicant or appellant by certified mail. Copies of decisions granting conditional uses or variances in a Floodplain, Shoreland or Wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources.
- (f) *Reconsideration.*
  - (1) *Resubmission.* No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision with one year of the Board of Zoning Appeals' decision, except pursuant to court order or by motion to reconsider made by a member voting with the majority or as provided in Subsection (f)(2) of this Section.
  - (2) *Rehearing.* No rehearing shall be held except upon the affirmative vote for four or more members of the Board of Zoning Appeals upon finding that substantial, new evidence is submitted, which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, shall state the reasons for the request and shall be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements as original hearings.

(Code 1998, § 13-1-263; Ord. No. 2003-03, § 1(13-1-263), 3-24-2003; Ord. No. 2006-08, § 6, 4-24-2006)

**State law reference(s)**—Board of appeals, Wis. Stats. § 62.23(7)(e).

**SECTION 20:**            **AMENDMENT** “62-398 Appeals Of Landmarks Commission Actions” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-398 Appeals Of Landmarks Commission Actions

A decision by the Landmarks Commission to deny a certificate of appropriateness may be appealed to the Village Board. The appeal shall be initiated by filing a petition, specifying the grounds therefor, with the Village Clerk-Treasurer within ten days of the date the decision of the Landmarks Commission is made. After a public hearing, the Village Board may, by vote of a majority of its members, reverse or modify the decision of the Landmarks Commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for such owner's own purposes, the Village Board finds that, owing to special conditions pertaining to the specific piece of property, demolition will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the Landmarks Commission's decision.

(Code 1998, § 13-1-285; Ord. No. 2003-03, § 1(13-1-285), 3-24-2003)

**SECTION 21:**            **AMENDMENT** “62-400 Rescission Of Historic Structure Of Site Designation; Sale” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-400 Rescission Of Historic Structure Of Site Designation; Sale

Any owner of record of an historic structure or site who wishes to sell said historic structure but is unable to find a buyer willing to preserve the historic structure or site, may petition the Landmarks Commission for a rescission of its designation. Such petition shall contain a verified statement that the owner has made reasonable attempts in good faith to find and attract such a buyer and such other information deemed reasonably necessary by the Landmarks Commission. Following the filing of such petition:

- (a) The owner and the Landmarks Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.
- (b) If, at the end of a period not exceeding 12 months from the date of such petition, no such buyer can be found and if the owner still desires to obtain such a rescission, the Landmarks Commission may recommend, and the Village Board may approve, the rescission of the designation of the subject property as historic under this Article.
- (c) In the event of such rescission, the Village Clerk-Treasurer shall notify the Building Inspector and the Village Assessor of the same, and shall cause the rescission to be recorded at Village expense in the Dane County Register of Deeds.

(Code 1998, § 13-1-287; Ord. No. 2003-03, § 1(13-1-287), 3-24-2003)

**SECTION 22:**        **AMENDMENT** “62-402 Historic District Review And Adoption Procedures” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**62-402 Historic District Review And Adoption Procedures**

- (a) The Landmarks Commission shall hold a public hearing when considering the plan for an Historic District. Notice of the time, place, and purpose of such hearing shall be made by First Class Mail to the owners of the places, structures or objects of the determination, and as otherwise provided by law. Notice of the time, place and purpose of the public hearing shall also be sent by the Village Clerk-Treasurer to the owners of record, as listed in the assessment records, who are owners of property situated within the district or within 200 feet of the boundaries of the proposed district at least ten days prior to the date of the hearing. Following the public hearing, the Landmarks Commission shall vote to recommend, reject or withhold action on the plan. The recommendation, if any, shall be forwarded to the Village Board.
- (b) Upon receipt of the recommendations of the Landmarks Commission, the Village Board shall hold a public hearing, notice to be given as noted in Subsection (a) of this Section, and shall, following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan in Article form prepared for that district directing implementation of said plan.

(Code 1998, § 13-1-289; Ord. No. 2003-03, § 1(13-1-289), 3-24-2003)

**SECTION 23:**        **AMENDMENT** “62-705 Official Shoreland-Wetland Zoning Maps” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

62-705 Official Shoreland-Wetland Zoning Maps

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Village Clerk-Treasurer:

- (a) Wisconsin Wetland Inventory maps stamped "FINAL" on October 29, 1984.
- (b) Capital Area Regional Planning Commission Maps depicting Village wetland boundaries.
- (c) United States Geological Survey Map entitled "Madison East," number 43089-A3-TF-024 (1983), DMA 3170 III SE-Series V861, Quadrangle 7.5 min. series.

(Code 1998, § 13-3-21; Ord. No. 2003-03, § 1(13-3-21), 3-24-2003)

**SECTION 24:**        **AMENDMENT** "1-15 Village Clerk-Treasurer To Maintain Copies Of Documents Incorporated By Reference" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

1-15 Village Clerk-Treasurer To Maintain Copies Of Documents Incorporated By Reference

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

(Code 1998, § 1-1-7; Ord. No. 2003-02, § 5, 1-27-2002)

~~Editor's note(s) — Ord. No. 2017-12, § 1, adopted June 26, 2017, changed the title of § 1-15 from "Village Clerk to maintain copies of documents incorporated by reference" to read as herein set out.~~

**SECTION 25:**        **AMENDMENT** "1-20 Schedule Of Cash Deposits" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

## 1-20 Schedule Of Cash Deposits

The schedule of cash deposits for the various ordinances for which a citation may be issued are as established on the deposit schedule promulgated by the municipal court and adopted by the Village Board, a copy of which is on file with the Village Clerk-Treasurer. In addition to the deposit amount listed, the deposit must include court costs, surcharges, and assessments as imposed by Wis. Stats. § 800.10. The Chief of Police shall be provided a copy of all bond schedules and amendments thereto.

(Code 1998, § 1-2-4; Ord. No. 2003-02, § 6, 1-27-2002)

**State law reference(s)**—Bond or cash deposit for violations, Wis. Stats. § 66.0111; fees and costs in municipal court, Wis. Stats. § 800.10.

**SECTION 26:**        **AMENDMENT** “2-44 Election Officials” of the Village of McFarland Municipal Code is hereby *amended* as follows:

### AMENDMENT

#### 2-44 Election Officials

Pursuant to the Wisconsin Statutes, there is hereby established one set of election inspectors to conduct all elections of the Village, which shall consist of at least five election inspectors. However, the Village Clerk-Treasurer shall have the power to increase the number of election inspectors or select two or more sets of election inspectors to work at different times on election day and permit the Village Clerk-Treasurer to establish different working hours for different election inspectors assigned to the same polling place. The Village Clerk-Treasurer shall determine in advance of each election whether the number of election inspectors for such election should be increased or provide for the selection of two or more sets of election inspectors. The Village Clerk-Treasurer may serve as a tabulator.

(Code 1998, § 2-1-4; Ord. No. 2003-02, § 7, 1-27-2002; Ord. No. 2002-11, § 1, 10-14-2002)

**State law reference(s)**—Appointment of election officials, Wis. Stats. § 7.30.

**SECTION 27:**        **AMENDMENT** “2-45 Nomination Of Candidates For Elective Village Office” of the Village of McFarland Municipal Code is hereby *amended* as follows:

### AMENDMENT

#### 2-45 Nomination Of Candidates For Elective Village Office

- (a) All candidates for elective Village office in the Village of McFarland, Wisconsin, shall be nominated by ~~a nonpartisan primary~~, nomination papers under Wis. Stats. § 8.05(54)(a). Primaries shall be held in accordance with Wis. Stats. § 8.05(5).
- (b) Nomination papers shall be signed by not less than 20 nor more than 100 electors of the Village. The papers shall be circulated not sooner than December 1 preceding the election and shall be filed with the Village Clerk-Treasurer not later than 5:00 p.m. on the first Tuesday in January or the next day if the first Tuesday is a holiday.
- (c) No additional candidates may be nominated, by caucus or otherwise, except as above provided.
- (d) Notice of the nonpartisan primary shall be given by the Village Clerk-Treasurer in accordance with Wisconsin Statutes.

(Code 1998, § 2-1-5; Ord. No. 2003-02, §§ 8, 9, 1-27-2002)

**State law reference(s)**—Nomination in villages, Wis. Stats. § 8.05.

**SECTION 28:**            **AMENDMENT** “2-47 Municipal Board Of Absentee Canvassers” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

2-47 Municipal Board Of Absentee Canvassers

- (a) The Municipal Board of Absentee Canvassers shall be composed of the Village Clerk-Treasurer, or a qualified elector of the Village designated by the Village Clerk-Treasurer, and two other qualified electors of the Village appointed by the Village Clerk-Treasurer for a term of two years commencing on January 1 of each odd-number year. The Village may appoint additional inspectors under Wis. Stats. § 7.30(2)(a) to assist the board of absentee canvassers in canvassing absentee ballots under this Section.
- (b) The Village Board declares in lieu of canvassing absentee ballots at polling places under Wis. Stats. § 6.88, the Municipal Board of Absentee Canvassers may canvass absentee ballots at an election held in the Village.
- (c) The Village Clerk-Treasurer shall give at least 48 hours' notice of any meeting under this Section.
- (d) The Village Clerk-Treasurer, no later than the closing hour of the polls, shall post at the Village Clerk-Treasurer's office and on the Internet at a site announced by the Village Clerk-Treasurer before the polls open, and shall make available to any person upon request, a statement of the number of absentee ballots that the Village Clerk-Treasurer has mailed or transmitted to electors and that have been returned by the closing hour on election day.

(Ord. No. 2008-08, § 1(2-1-6), 10-13-2008)

**SECTION 29:**        **AMENDMENT** “2-158 Board Minutes” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-158 Board Minutes**

The Village Clerk-Treasurer shall keep a record of all Village Board proceedings and cause the proceedings to be published.

(Code 1998, § 2-2-9(c); Ord. No. 2003-02, § 11, 1-27-2002)

**State law reference(s)**—Meetings, Wis. Stats. § 61.32.

**SECTION 30:**        **AMENDMENT** “2-159 Special Meetings” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-159 Special Meetings**

- (a) Special meetings of the Village Board may be called by the Village President, or by two Village Trustees filing a written request with the Village Clerk-Treasurer ~~at least 24 hours prior to the time specified for such meeting.~~ The Village Clerk-Treasurer, in consultation with the Village President, shall select the day date and time for the special meeting and immediately notify each Village Trustee of the time and purpose of such meeting. The notice shall be delivered or electronically mailed to each Village Trustee personally or left at the Village Trustee's usual place of abode a minimum of 24 hours prior to the meeting time provided, however, that any Trustee may waive his or her right to the minimum notice period. The Village Clerk-Treasurer shall cause a record of such notice to be filed in the Village office prior to the time fixed for such special meeting. No business shall be transacted at a special meeting except for the purposes stated in the notice thereof. Notice to the public of special meetings shall conform to the open meeting requirements of Wis. Stats. §§ 61.32 and 19.81 et seq. The Village Clerk-Treasurer shall give notice immediately as soon as practicable upon the call for scheduling such meeting being filed.
- (b) The request for any special meeting shall state the purpose for which the meeting is to be called.

(Code 1998, § 2-2-10; Ord. No. 2003-02, § 12, 1-27-2002)

**State law reference(s)**—Meetings and notice, Wis. Stats. §§ 61.32, 985.02(2)(a); open meetings, Wis. Stats. § 19.81 et seq.

**SECTION 31:**        **AMENDMENT** “2-161 Quorum” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-161 Quorum**

- (a) Four members of the Village Board shall constitute a quorum, but a lesser number may adjourn or compel attendance of absent members if a majority of the members-elect is not present. The Village President shall be counted in computing a quorum.
- (b) When the presiding officer shall have called the members to order, the Village Clerk-Treasurer shall proceed to call the roll, noting who are present, and who are absent. If, after having gone through with the call, it shall appear that a quorum is not present, the fact shall be entered in the minutes, and the members present may adjourn to a later date in the month. If they do not establish the next meeting date, the Village Board shall stand adjourned to the time appointed for the next regular meeting unless a special meeting is called sooner.

(Code 1998, § 2-2-12; Ord. No. 2003-02, § 13, 1-27-2002)

**State law reference(s)**—Meetings, Wis. Stats. § 61.32.

**SECTION 32:**        **AMENDMENT** “2-162 Presiding Officers” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-162 Presiding Officers**

- (a) *The Village President shall preside.* The Village President shall preside over meetings of the Village Board. In the case of absence of the Village President, the Village Clerk-Treasurer shall call the meeting to order and the Village Trustees present shall elect one of their number as presiding Village Trustee.
- (b) *Duties.* The Village President or presiding Village Trustee shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order, Newly Revised, unless otherwise provided by statute or by these rules. Any member shall have the right to appeal from a decision of the Village President or presiding Village Trustee. Such appeal is not debatable and must be sustained by a majority vote of the

members present excluding the Village President or presiding Village Trustee.

(Code 1998, § 2-2-13; Ord. No. 2003-02, § 14, 1-27-2002)

**State law reference(s)**—Meetings, Wis. Stats. § 61.32.

**SECTION 33:**        **AMENDMENT** “2-163 Meeting Agendas; Order Of Business” of the Village of McFarland Municipal Code is hereby *amended* as follows:

### AMENDMENT

#### 2-163 Meeting Agendas; Order Of Business

(a) *Agenda.*

- (1) The conduct of business at all regular or special meetings shall be according to the agenda prepared and properly posted by the Village Clerk-Treasurer. The Clerk-Treasurer may establish reasonable policies for the submission of materials for inclusion on the agenda in order to afford Board members a reasonable period of time to review such materials in advance of the Board meeting.
- (2) A submitting department shall include copies of all material necessary to consider the agenda item.
- (3) The Village President shall advise the Village Clerk-Treasurer whether to include an item on the agenda, except that the Village Trustees calling a special meeting shall decide which items shall be first considered at such special meeting.
- (4) The Village Clerk-Treasurer shall afford the Village Trustees and Village Attorney maximum reasonable notice of agenda items as each situation allows.

(b) *Index number.* Prior to action thereon, the Village Clerk-Treasurer shall assign to each ordinance and resolution a chronological index number which shall be maintained by the Village Clerk-Treasurer.

(c) *Order of business.* Generally, the following order of business may be observed in the conduct of all regular Village Board meetings.

- (1) Call to order.
- (2) Roll call.
- (3) Public Announcements, Communications and Proclamations
- (4) Consent agenda.
- (5) Public appearances.
- (6) Public hearings (if needed).
- (7) Business.
- (8) Closed Session (if needed).
- (9) Reconvene into Open Session (if needed).

- (10) Action on items discussed in Closed Session (if needed).
- (11) Adjournment.
- (d) *Order to be followed.* No business shall be taken up out of order unless authorized by the Village President or by majority vote of the Village Board and in the absence of any debate whatsoever.

(Code 1998, § 2-2-14; Ord. No. 2003-02, §§ 15—18, 1-27-2002; Ord. No. 2009-05, § 1, 2-9-2009)

**SECTION 34:            AMENDMENT “2-164 Introduction Of Business; Resolutions And Ordinances; Disposition Of Communications” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

A M E N D M E N T

2-164 Introduction Of Business; Resolutions And Ordinances; Disposition Of Communications

- (a) *Ordinances.* All ordinances and resolutions shall be prepared as follows:
  - (1) Each ordinance shall include a note stating the purpose thereof prepared by the sponsor. All ordinances submitted to the Village Board shall be in writing and shall include at the outset a brief statement of the subject matter and a title.
  - (2) The sponsor of an ordinance may be the Village President, one or more Village Trustees, the Village Administrator, a department head or a board, committee or commission. The Village Attorney may sponsor ordinances when changes in state law make it necessary or desirable for the Village to act rapidly.
  - (3) Each ordinance may contain a recommended referral to appropriate subunits of the Village Board.
  - (4) On ordinances that require special handling, the Village Attorney shall assure that an editorial note is prepared showing compliance with such special handling.
  - (5) The Village Attorney shall approve each ordinance as to form prior to its placement on the agenda for Village Board action.
  - (6) The Village Clerk-Treasurer may reject any ordinance from placement on the agenda which fails to comply with this Section.
  - (7) Unless requested by a Village Trustee before a final vote is taken, no ordinance, resolution or bylaw need be read in full.
  - (8) Resolutions may be referred to an appropriate standing committee for an advisory recommendation.
- (b) *Subject and numbering of ordinances.* Each ordinance shall be related to no more than one subject. Amendment or repeal of ordinances shall only be accomplished if the amending or repealing ordinance contains the Code Section number of the ordinance

to be amended or repealed, and the title of amending and repealing ordinances shall reflect their purpose to amend or repeal.

- (c) *Notice.* The Village Board may take action on an ordinance only if it appears on the written agenda for the meeting at which action is requested.
- (d) *Disposition of petitions, communication, etc.* Every petition or other writing of any kind, addressed to the Village Board or to the Village Administrator or other Village officer for reference to the Village Board, shall be delivered by such other Village officer to the Village President or to the presiding officer of the Village Board as soon as convenient after receipt, and, in any event, prior to or at the opening of the next meeting of the Village Board following the receipt. Every such petition, or other writing, and every paper, communication or other proceeding which shall come before the Village Board for action, may be referred by the Village President or presiding officer to the appropriate authority, board, committee or commission, unless objected to by some member of the Village Board.
- (e) *Reference and reports.* The presiding officer may refer new business coming to the Village Board to the appropriate standing committee unless otherwise referred or acted upon by the Village Board. All referrals, unless otherwise provided for in the referral, shall be reported on at the next regular Village Board meeting unless the standing committee has no regularly scheduled meetings before the next Village Board meeting. Village Board motions based upon committee or commission action is permissible only on items specifically on the agenda.

(Code 1998, § 2-2-15; Ord. No. 2003-02, §§ 19—21, 1-27-2002)

State law reference(s)—Ordinances, Wis. Stats. § 61.50.

**SECTION 35:            AMENDMENT “2-165 Publication And Effect Of Ordinances” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

##### 2-165 Publication And Effect Of Ordinances

- (a) All ordinances imposing any penalty or where otherwise required by law shall be published once in the official newspaper of the Village or posted according to state law, and shall be immediately recorded by the Village Clerk-Treasurer in a book kept for that purpose and/or this Code. A printed copy of such ordinance or regulation in any book, pamphlet or newspaper and published or purporting to be published therein by direction of the Village Board shall be prima facie proof of due passage, publication and recording thereof.
- (b) All ordinances shall take effect and be in force from and after passage and publication/posting (if required) thereof, unless otherwise provided.

(Code 1998, § 2-2-16; Ord. No. 2003-02, § 22, 1-27-2002)

**State law reference(s)**—Meetings, Wis. Stats. § 61.32; ordinances, Wis. Stats. § 61.50.

**SECTION 36:            AMENDMENT “2-166 Conduct Of Deliberations”** of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-166 Conduct Of Deliberations**

- (a) *Roll call votes.* A roll call shall not be necessary on any questions or motions except as follows:
- (1) When the ayes and noes are requested by any member.
  - (2) On confirmation and on the adoption of any measure assessing or levying taxes, appropriations or disbursing money or creating any liability or charge against the Village or any fund thereof in excess of \$25,000.00.
  - (3) When required by the Wisconsin Statutes.
- (b) *Record of votes.* All aye and no votes shall be recorded in the official minutes. The ayes and noes shall be ordered upon any question at the request of any member of the Village Board or the Village President, and the Village Clerk-Treasurer shall call the roll.
- (c) *Parliamentary procedure.* Except as provided below, the Village Board shall in all other respects determine the rules of its procedure, which shall be governed by Robert's Rules of Order, Newly Revised, which is hereby incorporated by reference, unless otherwise provided by ordinance or Wisconsin Statutes, except when otherwise limited or modified by this Code:
- (1) No Village Trustee shall address the Village Board until recognized by the presiding officer. The Village Trustee shall thereupon address the Village Board and confine remarks to the question under discussion and avoid all personalities.
  - (2) When two or more Village Trustees simultaneously seek recognition, the presiding officer shall name the Village Trustee who is to speak first.
  - (3) No person other than a Village Trustee shall address the Village Board except under order of business, except the citizens may address the Village Board with permission of the presiding officer as to matters which are being considered by the Village Board at the time.
  - (4) When a question is in debate, no action shall be in order except:
    - a. To adjourn;
    - b. To lay on the table;
    - c. The previous question;
    - d. To postpone to a certain date;
    - e. To refer to a standing, select or special committee;
    - f. To amend;
    - g. To postpone indefinitely;

and these several motions shall have precedence in the order in which they stand.

- (5) The movant may request leave to withdraw a motion at any time prior to voting on the question. Such a request requires no second. If any member objects, the presiding officer shall put the question of granting the request to vote.
- (d) *Compelling votes.* No member may be compelled to vote. When a member abstains from voting, the effect is the same as if the member voted on the prevailing side.
- (e) *Majority vote.* Unless a larger number is required by statute, ordinance or bylaw, a majority vote of those present at a legally constituted meeting is necessary to carry a question.

(Code 1998, § 2-2-17; Ord. No. 2003-02, § 23, 1-27-2002)

**SECTION 37:**        **AMENDMENT** “2-188 Attendance” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-188 Attendance**

The Village Clerk-Treasurer, or designee, shall maintain a record of the attendance of the members at meetings of all appointed boards, commissions and committees. Any member who will be absent from a meeting shall give prior notice of the absence to the chairperson. Failure to attend regularly scheduled meetings four times in any year, commencing from the annual organizational meeting, shall be deemed to be an event by which the member or chairperson vacates the position to which the member was appointed. The Village Clerk-Treasurer shall provide written notice of such vacancy to the former member, the appropriate chairperson, and the Village President. This section shall not apply to ex officio members.

**SECTION 38:**        **AMENDMENT** “2-191 Meetings And Public Notice” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-191 Meetings And Public Notice**

- (a) *Compliance with open meetings law.* Any meeting of a statutorily authorized authority, board, committee, commission, and standing committee shall be conducted in compliance with the Wisconsin Open Meetings Law. All meetings shall be open to the public unless falling within a lawful exception pursuant to Wis. Stats. § 19.81.

- (b) *Public notice.* For every regular meeting of a statutorily authorized authority, board, committee, commission, and standing committee the Village Clerk-Treasurer or designee, shall:
- (1) Schedule a date, time and place for its meetings;
  - (2) Post an agenda of the matters to be taken up at such meeting and notify the official Village newspaper in advance of each such regular meeting of the date, time, subject matter and place thereof;
  - (3) Place the agenda on the official Village website;
  - (4) When necessary, publish notice in the official Village newspaper in compliance with state law;
- (c) *Special meetings.* Nothing in Subsection (a) of this Section shall preclude the calling of a special meeting or dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of Wis. Stats. §§ 19.81 and 19.89.

**SECTION 39:**        **AMENDMENT** “2-192 Minutes And Reports” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 2-192 Minutes And Reports

The recorder of each board, commission and committee shall file a copy of the meeting minutes of such body with the Village Clerk-Treasurer prior to the next regularly scheduled meeting of such body. The meeting minutes shall include the date, time, and place of the meeting and the members attending; report on all agenda items; and provide all necessary historical background to familiarize the Village Board with the issue. Approved minutes are deemed to be the product of the entire board, commission and committee, whether any item therein is approved unanimously or not.

**SECTION 40:**        **AMENDMENT** “2-217 Officers” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 2-217 Officers

The members of the Board of Review shall elect a chairperson and a vice-chairperson, which said election shall be held at the first annual meeting of the Board of Review. The Board of Review shall have the Village Clerk-Treasurer serve as Clerk for the Board of Review who shall keep an accurate record of all of its proceedings and give the necessary notices.

**SECTION 41:            AMENDMENT “2-235 Meetings” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-235 Meetings**

- (a) All meetings and hearings of the Board of Zoning Appeals shall be open to the public, except that the Board of Zoning Appeals may go into closed session to deliberate after a hearing on an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Board of Zoning Appeal's office of the Community Development Department.
- (b) Special meetings may be called by the chairperson or at such other times as the Board of Zoning Appeals may determine. Notice of a special meeting shall be mailed to each member at least 48 hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.
- (c) Hearings may be held at any regular or special meeting at the time set by the chairperson.
- (d) A quorum for any meeting or hearing shall consist of three members, but a lesser number may meet and adjourn to a specified time. If a quorum is present, the Board of Zoning Appeals may take action under this Subsection by a majority vote of the members present.
- (e) The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Village Clerk-Treasurer and shall be public record. The Board of Zoning Appeals shall adopt its own rules of procedure not in conflict with this Code or with the applicable Wisconsin Statutes.
- (f) If a Board of Zoning Appeals member is unable to participate in any case because of a conflict of interest per the Ethics Code (Article V of this Chapter), the chairperson shall direct an alternate member to act instead. Disqualification of a member for a conflict of interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.

**SECTION 42:            AMENDMENT “2-272 Powers And Duties” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-272 Powers And Duties**

- (a) The Ethics Board advises the Village Board on maintaining an Ethics Code (Article VIII of this Chapter) which sets forth standards of conduct for Village officials and employees, interprets those ethics guidelines, and investigates any verified complaint alleging improper conduct under the Ethics Code.
- (b) The Ethics Board may make recommendations to the Village Board with respect to amendments of this Chapter.
- (c) The Ethics Board shall provide a standard form for persons to use when submitting a verified complaint alleging violations of the Ethics Code. "Verified" means that the complainant has made a declaration under oath or affirmation, before a notary public, that the complaint is true.
- (d) In the event any person submits a verified complaint alleging that any Village official or employee has violated the Ethics Code, the Village Clerk and the Chairperson of the Ethics Board shall conduct an initial review of the complaint to determine whether it is complete in form. If the Clerk and Chairperson determine that the verified complaint is incomplete, they shall notify the complainant and provide the complainant with an opportunity to submit the additional information needed to complete the verified complaint.
- (e) Following determination by the Village Clerk-Treasurer and the Chairperson of the Ethics Board that the complaint is complete, the Ethics Board shall review whether the facts alleged in the verified complaint, if true, would constitute improper conduct under Article VIII of this Chapter and warrant further investigation. The Ethics Board shall decide whether this review is conducted in an open meeting or may be closed under Wis. Stats. § 19.85(1)(b) or (1)(f). If the Ethics Board determines that the verified complaint does not allege facts sufficient to constitute a violation of Article VIII of this Chapter, it shall dismiss the complaint and notify the complainant. If the Ethics Board determines that the verified complaint was brought for harassment purposes, the Ethics Board shall so state.
- (f) If the Ethics Board determines that the facts alleged in the verified complaint if true, would constitute improper conduct under Article VIII of this Chapter, the Ethics Board shall conduct an investigation into the merits of the complaint. The Ethics Board may solicit the assistance of Village officers and employees to assist in the investigation, and may retain outside contractors if deemed necessary to perform the investigation.
- (g) The Ethics Board shall notify the person whose conduct is under investigation of any meetings where evidentiary hearings are held or where a decision is reached on whether to proceed further on the complaint. The Ethics Board shall decide whether these proceedings shall be conducted in open meetings or shall be closed under Wis. Stats. § 19.85(1)(b) or (1)(f). The Ethics Board may issue subpoenas and administer oaths.
- (h) Upon completion of the investigation, the Ethics Board shall conduct a public hearing in accordance with all constitutional requirements of due process and issue written findings of fact and conclusions of law determining the propriety of the conduct of the person whose conduct is under investigation.
- (i) If appropriate, the Ethics Board shall refer the matter to the Village Board, District Attorney or other proper authority.

(Ord. No. 2009-24, § 1, 12-14-2009)

**SECTION 43:**        **AMENDMENT** “2-312 Records” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-312 Records**

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

**SECTION 44:**        **AMENDMENT** “47-1 Management, Operation And Control” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**47-1 Management, Operation And Control**

- (a) *Management.* The management, operation, and control of the public water system, sewer system, and storm water system for the Village shall be vested in the Village Board. All records, minutes and all written proceedings thereof shall be kept by the Village Clerk-Treasurer.
- (b) *Construction authority.* Public Works & Utilities Committee shall oversee the progress of construction projects authorized by the Village Board for water and sewer facilities and shall advise the Village Board with respect to such projects.

(Ord. No. 2017-12, § 26, 6-26-2017)

**Editor's note(s)**—Ord. No. 2022-02, § 38, adopted Feb. 28, 2022, renumbered the former § 2-437 as § 47-1, as set out herein.

**SECTION 45:**        **AMENDMENT** “2-509 Appointed Officials” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-509 Appointed Officials**

- (a) The Village officials hereinafter set forth shall be appointed by the Village President, subject to confirmation by a majority vote of the Village Board; and one or more of said offices may be held by the same person. Persons appointed to perform the duties of the following offices shall hold office for an indefinite term, subject to removal as provided by Wis. Stats. § 17.12.
  - (1) Village Clerk-Treasurer.
  - (2) Village Treasurer.
  - (3) Director of Public Works.
- (b) The Village President shall not vote on the confirmation of such appointments, except in case of a tie.
- (c) The Village has no limitations on where any employee or prospective employee may reside.

(Code 1998, § 2-3-2; Ord. No. 2003-02, § 1, 1-27-2002; Ord. No. 2013-07, § 1, 8-26-2013)

**State law reference(s)**—Selection of appointed officers, Wis. Stats. § 61.197; removal of village officers, Wis. Stats. § 17.12.

**SECTION 46:**            **AMENDMENT** “2-511 Oaths Of Office” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

2-511 Oaths Of Office

- (a) *Oath of office.* Every officer of the Village, including members of statutorily authorized Village authorities, boards, committees, and commissions, shall, before entering upon their duties and within five days of their election or appointment or notice thereof, take the oath of office prescribed by law and file such oath in the office of the Village Clerk-Treasurer, provided that the Municipal Judge shall take the official oath within ten days after election and file it with the Dane County Clerk of Circuit Court prior to acting as Municipal Judge. Any person reelected or reappointed to the same office shall take and file an official oath for each term of service.
- (b) *Form; procedure.* The form, filing and general procedure for the taking of oaths shall be governed by Wis. Stats. § 19.01 et seq.

(Code 1998, § 2-3-18)

**State law reference(s)**—Oaths and bonds, Wis. Stats. §§ 19.01 et seq., 62.09(4).

**SECTION 47:            AMENDMENT “2-604 Powers And Duties Of Fire/EMS Chief” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-604 Powers And Duties Of Fire/EMS Chief**

**In addition to the duties imposed upon the Fire/EMS Chief elsewhere in this Code:**

- (a) The Fire/EMS Chief shall have general supervision of the Fire and Emergency Medical Services Department, subject to this Chapter and the policies and procedures of the Fire and Emergency Medical Services Department and shall be responsible for the personnel and general efficiency of the Fire and Emergency Medical Services Department.**
- (b) The Fire/EMS Chief or ranking officer of the Fire and Emergency Medical Services Department may prescribe certain limits in the vicinity of any fire within which no persons, except Firefighters, Police Officers, Emergency Medical Technicians and those admitted by order of any officer of the Fire and Emergency Medical Services Department, shall be permitted to come.**
- (c) The Fire/EMS Chief or ranking officer of the Fire and Emergency Medical Services Department shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire the Fire/EMS Chief or ranking officer of the Fire and Emergency Medical Services Department shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Fire and Emergency Medical Services Department during the progress of a fire.**
- (d) The Fire/EMS Chief shall have police powers granted by state law to protect the life and health of the public, determine the cause of fire and conduct emergency operations including, but not limited to:
  - (1) Inspection warrants as provided in Wis. Stats. § 66.0119;**
  - (2) Arson investigation and information regarding fire loss as provided in Wis. Stats. § 165.55(14);**
  - (3) Evacuation of areas and assistance for fire suppression as provided in Wis. Stats. § 213.095;**
  - (4) Right-of-entry into property or premises for fire suppression or emergency medical assistance as provided in Wis. Stats. § 213.095;**
  - (5) Declaration of hazardous materials, buildings and activities as provided in Wis. Stats. § 101.14.****
- (e) It shall be the duty of the Fire/EMS Chief to preside at all meetings of the Fire and Emergency Medical Services Department, to call special meetings, to preserve order, to decide all points of order that may arise and to enforce a rigid observance of this**

Section and the policies and procedures of the Fire and Emergency Medical Services Department.

- (f) It shall be the duty of the Fire/EMS Chief or ranking officer of the Fire and Emergency Medical Services Department to be present at all fires, to have complete command of and entire responsibility for all firefighting operations, to plan the control of the same, to direct the action of the company when they arrive at a fire, to observe that the Fire and Emergency Medical Services Department does its duty, to grant leaves of absence at a fire when the Fire/EMS Chief or ranking officer of the Fire and Emergency Medical Services Department may deem it proper and to see that the fire apparatus and ambulances are kept in proper condition at all times.
- (g) The Fire/EMS Chief shall enforce all fire prevention ordinances of this Village and state laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Fire and Emergency Medical Services Department.
- (h) The Fire/EMS Chief shall keep a record book of every fire to which the Fire and Emergency Medical Services Department was called and shall enter in such book the locality of fire, time alarm was received, cause of fire, where fire started, cause of delay (if any) in responding, method of extinguishment and equipment used, amount of insurance carried on building and contents, estimated fire loss, time fire was extinguished, names of firefighters responding and general remarks.
- (i) The Fire/EMS Chief shall have the power to discipline or terminate any career employee or paid-on-call volunteer member of the Fire and Emergency Medical Services Department for neglect or refusal to perform departmental duties. In the case of career firefighter employees only, such discipline or termination is subject to an appeal to the Police and Fire Commission.
- (j) Not later than September 1 of each year, the Fire/EMS Chief shall prepare and submit to the Village ~~Administrator~~ ~~Clerk-Treasurer~~ a proposed budget for the Fire and Emergency Medical Services Department for the next fiscal year.
- (k) It shall be the duty of the Fire/EMS Chief to submit:
  - (1) A monthly report to the Village Board of all activities of the Fire and Emergency Medical Services Department during the preceding month; and
  - (2) An annual report to the Village Board concerning the previous year's activities of the Fire and Emergency Medical Services Department in a form as prescribed by the Village Board.
- (l) The Fire/EMS Chief shall ensure compliance by the Fire and Emergency Medical Services Department with the provisions of the Wisconsin Administrative Code applicable to firefighting.
- (m) The Fire/EMS Chief shall perform such other duties as are incumbent on the commanding officer of the Fire and Emergency Medical Services Department.
- (n) The Fire/EMS Chief or designee, shall be the Fire Inspector of the Village and shall have the power to appoint one or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the state and rules of the Wisconsin Department of Safety and Professional Services particularly Wis. Stats. § 101.14.
- (o) While acting as Fire Inspector pursuant to Wis. Stats. § 101.14(2), the Fire/EMS Chief,

or any officer of the Fire and Emergency Medical Services Department designated by the Fire/EMS Chief, shall have the right and authority to enter any building or upon any premises in the Village at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code, they may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists that should be eliminated, it shall be the Fire Inspector's duty to give such directions for the abatement of such conditions as the Fire Inspector shall deem necessary and, if such directions be not complied with, to report such noncompliance to the Village Board for further action.

- (p) The Fire/EMS Chief or officers or members of the Fire and Emergency Medical Services Department designated by the Fire/EMS Chief as Fire Inspectors, shall inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made at least once in each nonoverlapping six-month period per calendar year in all of the territory served by the Fire and Emergency Medical Services Department, and not less than once in three months in such territory as the Village Board has designated or thereafter designates as within the Village or as a congested district subject to conflagration, and more often as the Fire/EMS Chief orders.
- (q) Reports of inspections shall be made and kept on file in the office of the Fire/EMS Chief in the manner and form required by the Wisconsin Department of Safety and Professional Services. A copy of such reports shall be filed with the Fire/EMS Chief.
- (r) The Fire/EMS Chief, or any other officer of the Fire and Emergency Medical Services Department in command at any fire, is hereby vested with full and complete authority at fires, and may cause the arrest of any person failing to give the right-of-way to the Fire and Emergency Medical Services Department in responding to a fire.

(Code 1998, §§ 2-3-7(b), 5-2-3; Ord. No. 2013-14, § 4, 11-11-2013; Ord. No. 2013-20, § 1, 12-9-2013)

**Editor's note(s)**—Section 4 of Ord. No. 2013-14, adopted Nov. 11, 2013, changed the title of § 2-604 from "Powers and duties" to "Powers and duties of Fire/EMS Chief."

**SECTION 48:**            **AMENDMENT** "2-730 Fees" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 2-730 Fees

- (a) Bonds for appearance, partial payments and other funds collected by the municipal

- court shall be treated as escrow funds and deposited with the Village Clerk-Treasurer.
- (b) The Clerk of the Municipal Court shall collect all forfeitures, fees, surcharges, and costs in any action or proceeding before the Municipal Court and shall report and pay over such moneys to the Village Clerk-Treasurer within 30 days after receipt of such moneys by the Municipal Court, as provided under Wis. Stats. § 800.10(2). At the time of payment, the Municipal Court Clerk shall report to the Village Clerk-Treasurer the title of the action, the offense for which the forfeiture was imposed and the total amount of the forfeiture, fees, surcharges and costs, if any. The Village Clerk-Treasurer shall disburse the fees as provided in Wis. Stats. Ch. 814, and disburse any surcharges in accordance with law.

(Code 1998, § 2-3-13(g); Ord. No. 2003-05, § 10, 3-24-2003; Ord. No. 2011-02, § 2, 1-24-2011)

**State law reference(s)**—Municipal court fees and costs, Wis. Stats. §§ 800.10, 814.65.

**SECTION 49:**            **AMENDMENT** “2-825 Disclosure Of Certain Financial Interests” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 2-825 Disclosure Of Certain Financial Interests

- (a) All elected officials shall file an initial statement and annually amend such statement on or before May 1 if substantial changes have occurred in economic interests as defined and limited to Section 2-826 within a time period specified by the Ethics Board.
- (b) Within seven days after a person becomes a candidate for any elective Village office, such person shall file a statement of economic interests with the Ethics Board.
- (c) No person required to file a statement of economic interests under this Section who has not complied with Subsection (b) of this Section shall have such person's name appear on the ballot, take the oath of office, or receive salary or compensation until such person files such statement of economic interests. The Village Clerk-Treasurer is directed to strike from the ballot the name of any candidate who has not complied with Subsection (b) of this Section. The Village Clerk-Treasurer shall withhold payment of salary or other compensation from any official who has not complied with Subsection (b) of this Section.

(Code 1998, § 2-5-7(i); Ord. No. 2003-02, § 29, 1-27-2002; Ord. No. 2007-02, 1-8-2007)

**State law reference(s)**—Financial disclosure, Wis. Stats. § 19.43.

**SECTION 50:        AMENDMENT “2-827 Campaign Contributions” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-827 Campaign Contributions**

Campaign contributions shall be reported by all candidates for Village office in strict conformity with the provisions of the Wisconsin Statutes unless the candidate has applied for an exemption. Any campaign contribution tendered to or accepted by a candidate subsequent to filing a termination report with the Village Clerk-Treasurer must be returned immediately.

(Code 1998, § 2-5-7(k); Ord. No. 2007-02, 1-8-2007)

**SECTION 51:        AMENDMENT “2-873 Duty To Maintain Records” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-873 Duty To Maintain Records**

- (a) Except as provided under Section 2-878, each officer and employee of the Village shall safely keep and preserve all records received from their predecessor or other persons and required by law to be filed, deposited or kept in their office or which are in the lawful possession or control of the officer or employee or their deputies, or to the possession or control of which 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 their successor all records then in their custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Village Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Village Clerk-Treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(Code 1998, § 3-3-2; Ord. No. 2003-02, § 44, 1-27-2002)

**SECTION 52: AMENDMENT “2-874 Legal Custodian” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-874 Legal Custodian**

- (a) Each elected official is the legal custodian of their records and the records of their office, but the official may designate the Village Clerk-Treasurer to act as the legal custodian.
- (b) Unless provided in Subsection (c) of this Section, the Village Clerk-Treasurer or the Village Clerk-Treasurer's designee shall act as legal custodian for the Village and for any statutorily authorized authorities, boards, committees, commissions, and standing committees created by ordinance or resolution of the Village Board. The following offices or authorities shall have as a legal custodian of records the individuals so named.

| Authority   | Designated Legal Custodian |
|---|----------------------------|
| General Village Records (including Village Board records) | Village Clerk-Treasurer    |
| Fire and Emergency Medical Services Department            | Fire/EMS Chief             |
| Library   | Library Director           |
| Police Department   | Chief of Police            |

- (c) For every authority not specified in Subsections (a) and (b) of this Section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of such officer's staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in their absence or in the absence of a designee, and each legal custodian shall send notice of the designated deputy to the Village Clerk-Treasurer.
- (e) The Village Clerk-Treasurer shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

(Code 1998, § 3-3-3; Ord. No. 2003-02, §§ 45—48, 1-27-2002; Ord. No. 2013-14, § 6, 11-11-2013)

**State law reference(s)**—Custodian of records, Wis. Stats. § 19.21; legal custodians, Wis. Stats. § 19.33.

**SECTION 53:            AMENDMENT “2-875 Public Access To Records” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**2-875 Public Access To Records**

- (a) Except as provided in Section 2-877, any person has a right to inspect a record and to make or receive a copy of any record of 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) The per-page fee for copies, certified or otherwise, of any document for which a specific fee has not been otherwise provided for herein, or for comparison and attestation of copies not provided by the Village Clerk-Treasurer, shall be as established by the Village Board from time to time and set forth in Appendix A to this Code.
  - (1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
  - (2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audiotapes and videotapes, shall be charged.
  - (3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - (4) There shall be no charge for locating a record unless the actual cost therefor exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
  - (5) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.
  - (6) Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
  - (7) The legal custodian may provide copies of a record without charge or at a reduced charge where the legal custodian 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 Subsection does not apply to members of the Village Board.

(Code 1998, § 3-3-4; Ord. No. 99-02, § 1, 1-11-1999; Ord. No. 2002-02, § 2, 1-14-2002)

**State law reference(s)**—Procedural information, Wis. Stats. § 19.34; access to records, fees, Wis. Stats. § 19.35.

**SECTION 54:**            **AMENDMENT** “2-879 Preservation Of Records” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

2-879 Preservation Of Records

Legal custodians may, subject to the approval of the Village Clerk-Treasurer, maintain and preserve public records by electronic or other approved formatting. Such records shall meet the applicable standards set forth under Wis. Stats. §§ 16.61(7) and 16.612, and Wis. Admin. Code Adm 12. Such records shall be preserved along with other files of the legal custodian and shall be open to public inspection and copying according to the provisions of state law and of Sections 2-875 through 2-877.

**Editor's note(s)**—Ord. No. 2019-22, § 3, adopted Nov. 11, 2019, amended § 2-879 in its entirety to read as herein set out. Former § 2-879 pertained to preservation through microfilm, and derived from Code 1998, § 3-3-8; Ord. No. 2003-02, § 49, adopted Jan. 27, 2002; and Ord. No. 2017-12, § 40, adopted June 26, 2017.

**State law reference(s)**—Preservation of public records, Wis. Stats. §§ 16.61, 16.611, 16.612, 19.35(5).

**SECTION 55:**            **AMENDMENT** “2-934 Proceeds From Disposal Of Village Property” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

2-934 Proceeds From Disposal Of Village Property

All net proceeds realized from the sale of Village property shall be forwarded to the ~~Administrator/Clerk-Treasurer~~ for deposit and crediting to the fund which originally paid for the property item which was sold. An annual report shall be provided to the Finance Committee summarizing the items of surplus property disposed of in the prior year, the purchaser or receiver of the property, and the revenue generated from the sale.

(Ord. No. 2014-10, § 3, 6-19-2014)

**SECTION 56:**        **AMENDMENT** “2-959 Village Custody Of Lost, Seized And Abandoned Property” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-959 Village Custody Of Lost, Seized And Abandoned Property**

- (a) Property that appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
- (b) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
- (c) No Village employee shall keep for their own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
- (d) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
- (e) No Village employee shall receive any lost, stolen, abandoned, or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the Village Clerk-Treasurer.

(Code 1998, § 3-4-2(a); Ord. No. 2003-02, § 50, 1-27-2002; Ord. No. 2003-05, § 16, 3-24-2003)

**State law reference(s)**—Deposit of funds in city treasury, Wis. Stats. § 62.12(7).

**SECTION 57:**        **AMENDMENT** “2-961 Procedure” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

## 2-961 Procedure

- (a) *Enumerated.* Such property shall be disposed of in the following manner:
- (1) *Vehicles.* Vehicles shall be disposed of as set forth in the applicable provisions of Chapter 35, Article X.
  - (2) *Intoxicating liquor and fermented malt beverages.* Intoxicating liquor and fermented malt beverages shall be destroyed.
  - (3) *Firearms or ammunition.* Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Wisconsin Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury.
  - (4) *Other property with a fair market value of \$500.00 or less.* An item of property with a fair market value of \$500.00 or less shall be destroyed, offered for sale to the general public, disposed of in an appropriate manner as solid waste, donated to a bonafide nonprofit and tax exempt organization, or sold at public auction. The Chief of Police shall determine the approximate fair market value in his or her reasonable discretion and determine the method of disposal after having given consideration to the time and expense of the method of disposal, the amount likely to be received in a sale, and any other factor relevant to the public interests served by Sections 2-959 through 2-964. The Chief of Police may delegate the duties under this paragraph to any other police officer and may enact policies to be followed in furtherance thereof.
  - (5) *Other property with a fair market value of over \$500.00.* An item of property with a fair market value of more than \$500.00 shall be sold at public auction or by sealed bid.
  - (6) *Illegal property.* Property that cannot be legally possessed shall be destroyed.
  - (7) *Flammable, explosive or incendiary substances, materials or devices.* Such items pose a danger to life or property in their storage, transportation, or use may be disposed of immediately after taking possession without a public auction.
- (b) *Chief of Police and Fire/EMS Chief responsible for disposal.* The Chief of Police and the Fire/EMS Chief are hereby authorized to determine the disposal procedure; provided, however, that any such procedure will attempt to return to its rightful owner any such substance, material or devices that have a commercial value in normal business usage and do not pose an immediate threat to life or property. If the substance, material or device appears to be or is reported stolen, an attempt will be made to return the substance, material or device to the rightful owner.
- (c) Any Village official selling property under this Section shall maintain as a public record for two years an inventory of any property not disposed of by auction or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person taking possession of the property.
- (d) If the disposal is in the form of a sale, all receipts from the sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into

the treasury of the Village.

- (e) *Disposition of cash money.* If any person shall find personal property consisting of cash money, the owner thereof being unknown, such person shall within five days after finding such money or property deliver the same to the Chief of Police. The Chief of Police shall attempt to return to the rightful owner such items which have substantial value if the owner or likely owner can reasonably be determined at no later than 70 days after said property comes into the possession of the Chief of Police. If such money is not claimed within 90 days of delivery to the Police Department, said money shall be turned over to the Village Clerk-Treasurer and credited to the miscellaneous general revenues account of the general fund.
- (f) *Disposition of seized property.* Abandoned or unclaimed personal property, including cash money, which has been seized as part of a narcotics arrest or investigation, may be returned to its rightful owner pursuant to Wis. Stats. § 968.20. Said property shall only be returned if it is not needed as evidence and all proceedings in which it might be required have been completed. Further, such property shall not be returned if said property constitutes contraband or is otherwise prohibited by law. Cash money which has been seized as part of a narcotics arrest or investigation shall be considered contraband and unless otherwise ordered by a court of competent jurisdiction, shall be placed in the Police Department's miscellaneous revenue account and shall solely be used for law enforcement activities by the Police Department as determined by the Chief of Police.

(Code 1998, § 3-4-2(b)(1)a—f, (b)(2)b; Ord. No. 2003-05, § 16, 3-24-2003; Ord. No. 2009-10, §§ 3(3-4-2(b)(1)(g)), 4(3-4-2(b)(1)(h)), 3-9-2009; Ord. No. 2013-14, § 7, 11-11-2013; Ord. No. 2015-11, § 1, 11-23-2015)

**State law reference(s)**—Means of disposal, Wis. Stats. § 66.0139(3); disposal of seized items and dangerous weapons or ammunition, Wis. Stats. § 968.20.

**SECTION 58:**            **AMENDMENT** “2-996 Hearing Of Administrative Appeal”  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 2-996 Hearing Of Administrative Appeal

- (a) *Time of hearing.* The Village shall provide the appellant a hearing on an appeal under Section 2-995 within 15 days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Village Clerk-Treasurer, who shall forthwith advise the Village President of such appeal.
- (b) *Conduct of hearing.* At the hearing the appellant and the municipal authority may be

represented by an attorney and may present evidence and call and examine witnesses and cross examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Village President shall appoint, with the Village Board confirmation, an impartial decision maker who may be an officer, committee, authority, board or commission of the Village or the Village Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. An appellant's attorney of record may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be in substantially the same form as provided in Wis. Stats. § 805.07(4) and must be served in the manner provided in Wis. Stats. § 805.07(5). The attorney shall, at the time of issuance, send a copy of the subpoena to the decision maker. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Village President to conduct the hearing and report to the decision maker.

- (c) *Record of hearing.* The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant, shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Village.
- (d) *Hearing on initial determination.* Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this Section before making such determination.

(Code 1998, § 4-1-10)

**State law reference(s)**—Similar provisions, Wis. Stats. § 68.11.

**SECTION 59:**        **AMENDMENT** “5-44 Issuance; Delivery” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 5-44 Issuance; Delivery

Upon payment of the required license tax and upon presentation of evidence that the dog or cat is currently immunized against rabies, as required by Sections 5-35—5-41, the Village Clerk-Treasurer shall complete and issue to the owner a license for such dog or cat containing all information required by state law. The Village Clerk-Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(Code 1998, § 7-1-3(a)(4); Ord. No. 2003-02, § 69, 1-27-2002)

**SECTION 60:            AMENDMENT “5-47 Exemption From Dog License Tax For Guide Dogs” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**5-47 Exemption From Dog License Tax For Guide Dogs**

Every dog specifically trained to lead blind or deaf persons or to provide support for mobility-impaired persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Village Clerk-Treasurer upon application therefor.

(Code 1998, § 7-1-3(a)(7); Ord. No. 2003-02, § 70, 1-27-2002)

**State law reference(s)**—Exemption, Wis. Stats. § 174.055.

**SECTION 61:            AMENDMENT “5-48 Multiple Dog Or Cat License” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**5-48 Multiple Dog Or Cat License**

- (a) Any person who owns, harbors or keeps more than three dogs or more than three cats may, instead of the license tax for each dog or cat required by this Chapter, apply for a multiple dog or cat license for the keeping of the dogs or cats. Such person shall pay for the license year a license tax as established by the Village Board from time to time and provided in Appendix A to this Code for 12 or fewer dogs or cats and an additional amount as provided in Appendix A to this Code for each dog or cat in excess of 12. Upon payment of the required license tax and, upon presentation of evidence that all dogs and cats over five months of age are currently immunized against rabies, the Village Clerk-Treasurer shall issue the license and a number of tags equal to the number of dogs and cats authorized to be kept.
- (b) The owner or keeper shall keep at all times a license tag attached to the collar of each dog or cat over five months old kept by the owner or keeper under a multiple dog or cat license, but this requirement does not apply to a show dog or cat during competition, to a dog or cat securely confined indoors or to a dog or cat securely confined in a fenced area. These tags may be transferred from one dog or cat to another within the kennel whenever any dog or cat is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog or cat for which it is issued at all times, but this requirement does not apply to a show dog or cat during competition, to a dog or cat securely confined indoors or to a dog or cat securely

confined in a fenced area. No dog or cat bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog or cat is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

- (c) The term "kennel" means any establishment wherein or whereon three or more dogs or three or more cats are kept.
- (d) No multiple dog license shall be issued to the keeper who fails to provide proper food and drink and proper shelter for the dogs or who neglects or abandons said dogs. Village police officers or other designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any premises upon their own initiative. Expressly incorporated by reference in this Section as minimum standards for keepers or operators are the relevant provisions of Wis. Stats. § 951.01 et seq.
- (e) A person wishing to operate a kennel shall do so only where the property is zoned to permit operation of kennels.

(Code 1998, § 7-1-3(b); Ord. No. 2003-02, § 71, 1-27-2002)

**State law reference(s)**—Multiple dog licenses, Wis. Stats. § 174.053.

**SECTION 62:**            **AMENDMENT** “5-49 Late Fees” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

5-49 Late Fees

The Village Clerk-Treasurer shall assess and collect a late fee in the amount established by the Village Board from time to time and provided in Appendix A to this Code from every owner of a dog or cat five months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within 30 days of acquiring ownership of a licensable dog or cat or if the owner failed to obtain a license on or before the dog or cat reached licensable age. Said late fee shall be charged in addition to the required license fee.

(Code 1998, § 7-1-4; Ord. No. 2003-02, § 72, 1-27-2002)

**State law reference(s)**—Late fees, Wis. Stats. § 174.05(5).

**SECTION 63:**            **AMENDMENT** “5-50 Rabies Quarantine” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

## 5-50 Rabies Quarantine

- (a) *Dogs and cats confined.* If a district is quarantined for rabies, all dogs and cats within the Village shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Clerk-Treasurer shall promptly post in at least three public places in the Village notices of quarantine.
- (b) *Exemption of vaccinated dog or cat from Village quarantine.* A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) of this Section if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) *Quarantine or sacrifice of an animal suspected of biting a person or being infected or exposed to rabies.*
- (1) *Quarantine or sacrifice of dog or cat.* An officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
  - (2) *Sacrifice of other animals.* An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
- (d) *Quarantine of dog or cat.*
- (1) *Delivery to isolation facility or quarantine on premises of owner.* An officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
  - (2) *Health risk to humans.* If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten days after the incident occurred. In this Subsection, the term "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
  - (3) *Risk to animal health.*
    - a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the

dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) *Destruction of a dog or cat exhibiting symptoms of rabies.* If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

(e) *Delivery of carcass; preparation; examination by laboratory of hygiene.* An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(f) *Cooperation of veterinarian.* Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(g) *Responsibility for quarantine and laboratory expenses.* The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

(Code 1998, § 7-1-5; Ord. No. 2003-02, § 73, 1-27-2002)

**State law reference(s)**—Similar provisions, Wis. Stats. § 95.21(3)—(8).

**SECTION 64:**        **AMENDMENT** “8-81 State Code Adopted” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**8-81 State Code Adopted**

The Wisconsin Administrative Code provisions describing and defining regulations with respect to one- and two-family dwellings in Wis. Admin. Code Chs. Comm. 20—25 are hereby adopted and by reference made a part of this Article as if fully set forth herein. Any act required to be performed or prohibited by Wisconsin Administrative Code provision incorporated herein by reference is required or prohibited by this Article. Any future amendments, revisions or modifications of the Wisconsin Administrative Code provisions incorporated herein are intended to be made part of this Article to secure uniform statewide regulation of one- and two-family dwellings in this Village. A copy of these Wisconsin Administrative Code provisions and any future amendment shall be kept on file in the Village Clerk-Treasurer's office.

(Code 1998, § 15-1-3(a); Ord. No. 2003-02, § 182, 1-27-2002)

**SECTION 65:**        **AMENDMENT** “8-341 General Requirements” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**8-341 General Requirements**

- (a) No person shall move any building or structure upon any of the public ways of the Village without first obtaining a permit therefor from the Director of Public Works and upon payment of the fee established by the Village Board from time to time and provided in Appendix A to this Code. Every such permit issued by the Director of Public Works for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued. An additional fee shall be paid for each day or fraction thereof that the building is on a public highway after the first day.
- (b) A report shall be made by Village employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the Village, shall be paid to the Village Clerk-Treasurer prior to issuance of the moving permit.
- (c) Issuance of moving permit shall further be conditioned on approval of the moving route by the Chief of Police.

(Code 1998, § 15-1-18(a); Ord. No. 99-02, § 10, 1-11-1999)

**SECTION 66:**        **AMENDMENT** “8-430 Buildings To Have Street Numbers”  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**8-430 Buildings To Have Street Numbers**

The Building Inspector shall assign an official street number to each principal building in the Village. All lots and parts of lots in the Village shall be numbered in accordance with a street numbering map on file in the office of the Village Clerk-Treasurer. Plats shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on the map. The Building Inspector shall notify the Village Clerk-Treasurer, Police Department, Director of Public Works, Fire/EMS Chief, Village Assessor, public and private utility providers, Dane County Communications Center and Dane County Property Lister of the numbers assigned.

(Code 1998, § 6-2-14(a); Ord. No. 2003-02, § 67, 1-27-2002; Ord. No. 2013-14, § 9, 11-11-2013)

**SECTION 67:**        **AMENDMENT** “8-909 Fees” of the Village of McFarland  
Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**8-909 Fees**

- (a) *Fees for erosion control plans.* Each applicant desiring to undertake a regulated activity subject to this Chapter shall submit to the Director of Public Works a fee required by the following fee schedule:
- (1) *Simplified plan checklists.* As established by the Village Board from time to time and provided in Appendix A to this Code.
  - (2) *Sites larger than 20,000 square feet in area and two acres or less in area.* As established by the Village Board from time to time and provided in Appendix A to this Code.
  - (3) *Sites larger than two acres in area and five acres or less in area.* As established by the Village Board from time to time and provided in Appendix A to this Code.
  - (4) *Sites larger than five acres in area.* The applicant shall be responsible for paying a fee equal to the actual cost to the Village for all engineering work and inspections incurred by the Village in connection with review of the

erosion control plan and inspections of the implementation of the plan. At the time the application is submitted, the applicant shall prepay the estimated fee established by the Village Board from time to time and provided in Appendix A to this Code. Following review of the plan, the Village Engineer shall estimate the total cost of the Village Engineer's review and inspections in connection with the review and implementation of the plan. If the amount is estimated to be more than the \$1,000.00 deposited with the application, the Director of Public Works shall require the applicant to deposit with the Village Clerk-Treasurer, in escrow, the remaining sum required by the Village Engineer's estimate.

(b) *Fees for stormwater management plans.* Each applicant desiring an activity regulated by this Article, shall submit to the Director of Public Works a fee required by the following schedule:

(1) *Stormwater management plan without detention plan.* As established by the Village Board from time to time and provided in Appendix A to this Code.

(2) *Stormwater management plan with detention plan.* As established by the Village Board from time to time and provided in Appendix A to this Code.

(c) *Payment; accountability.* The Village Clerk-Treasurer shall pay bills submitted for engineering and inspection out of the funds escrowed under Subsection (a)(4) of this Section. In the event the amount deposited with the Village Clerk-Treasurer falls below 25 percent of the amount required to be deposited, the Director of Public Works or designee shall require the permittee to replenish the escrow to the original amount required hereunder. Upon final acceptance of implementation of the erosion control plan, the amounts remaining in the escrow shall be refunded to the applicant. An account of all fees paid by the Village and the status of the escrow shall be provided to the permittee at least quarterly. In the event the applicant or permittee defaults in establishing or replenishing the escrow, the Village may take enforcement action as contemplated under Article XVII, Division 4 of this Chapter.

(Code 1998, § 15-5-40; Ord. No. 98-20, § 18, 12-14-1998; Ord. No. 2002-02, § 16, 1-14-2002; Ord. No. 2006-06, § 1, 3-28-2005)

**SECTION 68:**        AMENDMENT "8-963 Appeals" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 8-963 Appeals

- (a) The complainant may appeal the decision of the Section 504 coordinator where the complainant is dissatisfied with the resolution. The appeal request shall be made within seven days to the Village Clerk-Treasurer.
- (b) The grievance shall be heard by the Village Board within 15 working days after the

filing of an appeals request. The grievance shall be heard at the Municipal Center at a convenient time fixed by the Village Board. The Village Clerk-Treasurer shall give at least three days' written notice to the applicant by first class mail of any such grievance hearing.

- (c) Either party to the grievance may be represented, present evidence by testimony or otherwise, cross-examine witnesses and make argument either in person or by an agent of their choosing. Proceedings may, and, upon request of the applicant, shall, be recorded.
- (d) The decision of the Village Board on the grievance appeal shall be in writing and shall state the reasons for the decision. The decision of the Village Board shall be rendered within three working days of the close of the hearing and the Village Board shall immediately upon rendering the decision mail a copy thereof by first class mail to the applicant at the current post office address given in the applicant's application and record a copy of its determination with the Village Clerk-Treasurer.

(Code 1998, § 15-6-1(c))

**SECTION 69:            AMENDMENT “11-1 Licensees Required To Pay Local Taxes, Assessments And Claims” of the Village of McFarland Municipal Code is hereby amended as follows:**

#### AMENDMENT

##### 11-1 Licensees Required To Pay Local Taxes, Assessments And Claims

- (a) *Nonpayment of taxes or forfeitures.* The Village shall not issue or renew any license to transact any business within the Village:
  - (1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.
  - (2) For any person who is delinquent in payment:
    - a. Of any taxes, assessments or other claims owed the Village; or
    - b. Of any forfeiture resulting from a violation of any Village ordinance.
- (b) *Applicability.* This Section shall apply to licenses issued pursuant to the provisions of this Chapter.
- (c) *Denial of renewal.* An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) of this Section only following notice and opportunity for hearing as provided by Subsection (d) of this Section.
- (d) *Hearing.* Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a) of this Section, the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
  - (1) With respect to licenses renewable under Article II, Division 2 of this Chapter, notice and opportunity for hearing shall be as provided by Wis. Stats. § 125.12, as amended from time to time.

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

(e) *Other grounds for hearing.* Where an individual, business or corporation wishes to appeal the Village Clerk-Treasurer's decision not to issue a license or permit under this Article on grounds other than those specified in Subsections (a)—(d) of this Section, the applicant may file a request in writing with the Village Clerk-Treasurer that the matter be referred to the Village Board. A public hearing shall be scheduled within 14 calendar days by the Village Board. All parties may be represented by counsel. The Village Board shall consider all relevant information and shall render a decision which shall be binding.

(Code 1998, § 7-9-1; Ord. No. 2003-02, § 132, 1-27-2002)

**SECTION 70:            AMENDMENT “11-49 Temporary Class "B" Fermented Malt Beverage License” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**11-49 Temporary Class "B" Fermented Malt Beverage License**

(a) *License.* As provided in Wis. Stats. § 125.26(1) and (6), temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to houses of worship, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or

district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Village Board.

- (b) *Application.* Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee as established by the Village Board from time to time and provided in Appendix A to this Code. Any person claiming to represent any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture as provided in Section 1-16 and will be ineligible to apply for a temporary Class "B" license for one year. The license shall specify the location, hours and dates of license validity. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility. Licensees under this category shall fully comply with the restrictions prescribed in Sections 11-56—11-66.

(Code 1998, § 7-2-4(e); Ord. No. 2003-02, § 78, 1-27-2002)

**State law reference(s)**—Similar provisions, Wis. Stats. § 125.26(1), (6).

**SECTION 71:            AMENDMENT “11-50 Temporary "Class B" Wine License”**  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-50 Temporary "Class B" Wine License

- (a) *License.* Notwithstanding Wis. Stats. § ~~125.51(10)~~125.68 (3), temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to houses of worship, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Wis. Stats. § 125.26(6), or the same event. A license issued to a county or district fair, licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine from the stands while

the fair is being held.

- (b) *Application.* Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee. Any person claiming to represent any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture as provided in Section 1-16 and will be ineligible to apply for a temporary "Class B" wine license for one year. The license shall specify the location, hours and dates of license validity. If the application is for a license is to be used in a Village park, the applicant shall specify the main point of sale facility. Licensees under this category shall fully comply with the restrictions prescribed in Sections 11-56—11-66.

(Code 1998, § 7-2-4(f); Ord. No. 2003-02, § 79, 1-27-2002)

**State law reference(s)**—Temporary "Class B" wine license, Wis. Stats. § 125.51(10).

**SECTION 72:**        AMENDMENT "11-51 Provisional Retail Licenses" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-51 Provisional Retail Licenses

- (a) A provisional retail Class "A", Class "B", "Class A", "Class B", or "Class C" license shall be issued by the Village Clerk-Treasurer upon application for the same and payment of the fee for a provisional retail license set forth in Appendix A, upon the applicant meeting the following requirements:
- (1) The applicant has filed with the Village a complete application for a retail alcohol beverage license for the same class of license as the provisional retail license sought by the applicant.
  - (2) The applicant meets the requirements for issuance of the retail alcohol beverage license, as determined by the Chief of Police.
- (b) If the Chief of Police recommends denial of the provisional retail license, the application shall be forwarded to the Public Safety Committee for consideration, pursuant to Section 11-58. The Public Safety Committee may deny or approve the issuance of the provisional retail license, and if approved, the Village Clerk-Treasurer shall issue the provisional retail license accordingly.
- (c) A provisional retail license expires within 60 days of issuance, or when the retail alcohol beverage license is issued to the holder, whichever occurs sooner. In addition, a provisional retail license expires upon the Village Board denying the application for the retail alcohol beverage license.
- (d) The Village Clerk-Treasurer may revoke the provisional retail license if he or she discovers that the holder of the license made a false statement on the application for the

- retail alcohol beverage license or the provisional retail license.
- (e) No person may hold more than one provisional retail license for each type of license applied for by the holder per year.
  - (f) All provisional retail licenses are subject to conditions set forth under Section 11-64. In addition, the Public Safety Committee may impose additional conditions and restrictions on a provisional retail license, as may be recommended by the Chief of Police, related to health, safety and the public interest.

**SECTION 73:            AMENDMENT “11-54 License Fees” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**11-54 License Fees**

- (a) *Generally.* The following license fees shall be charged for licenses issued by the Village Board for the sale of intoxicating liquors and fermented malt beverages within the Village. All such fees are payable after approval of the application by the Village Board and prior to the release of the license being delivered to the licensee, except that the fee for a temporary Class "B" fermented malt beverages licenses and temporary "Class B" wine license shall be paid at the time application is submitted.
  - (1) *Class "A" fermented malt beverages license.* The annual fee for this license will be the fee established by the Village Board from time to time and provided in Appendix A to this Code. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
  - (2) *Class "B" fermented malt beverage license.* The annual fee for this license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. This license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license issued.
  - (3) *Temporary Class "B" fermented malt beverage license.* The fee for this license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code, per event.
  - (4) *Temporary "Class B" wine license.* The fee for this license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code, per event. However, there shall be no fee if the temporary "Class B" license is obtained along with a temporary Class "B" fermented

malt beverage license.

- (5) *Retail "Class A" intoxicating liquor license.* The annual fee for this license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. This license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license issued.
- (6) *Retail "Class B" intoxicating liquor license.* The annual fee for this license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. This license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license issued.
- (7) *Retail "Class C" license.* The annual fee for this license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. This license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license issued.
- (8) *Reserve "Class B" intoxicating liquor license.* The fee for an initial issuance of a reserve "Class B" license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code, except that the fee for the initial issuance of a reserve "Class B" license to a bona fide club or lodge situated and incorporated in the state for at least six years is the fee established by the Village Board from time to time and provided in Appendix A to this Code for such a club or lodge. The annual fee for renewal of a reserve "Class B" license is the fee established by the Village Board from time to time and provided in Appendix A to this Code.
- (9) *"Class B" license for full-service restaurants and hotels.* For those "Class B" licenses issued pursuant to Wis. Stats. § 125.51(4)(v), the initial and annual fee for a "Class B" license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code.
- (10) **Late Fees.** Alcohol licenses shall be applied for by April 15th annually or be subject to a late filing fee to be provided in Appendix A of this code. application for which there is a deficiency or lack of compliance that is corrected after April 15th shall be subject to a late filing fee to be provided in Appendix A of this code. Applications submitted May 1st and after, shall be subject to an additional late filing fee to be provided in Appendix A of this code. Any application for which there is a deficiency or lack of compliance that is corrected May 1st or after shall be subject to an additional late filing fee

to be provided in Appendix A of this code. Payment of the late filing fee shall not relieve any person from the requirement to obtain a license on or before June 30th of year year. Payment of the late filing fee shall not relieve any person from any other penalties prescribed for failure to obtain the license.

(11) Payment of fees after June 20th must be made with a credit card, certified check or cash.

(b) *Cancellation for failure to pay fee.* The Village Clerk-Treasurer shall issue each license approved by the Village Board and shall make the same available at the Village Clerk-Treasurer's office in Village Hall. Any licenses for which the license fee is not paid within 15 days of approval of the application by the Village Board shall be returned to the Village Board for cancellation or other disposition.

(Code 1998, § 7-2-5; Ord. No. 98-07, §§ 2, 3, 8-10-1998; Ord. No. 99-02, § 4, 1-11-1999; Ord. No. 2003-02, § 81, 1-27-2002)

**State law reference(s)**—Retail "Class A" licenses, Wis. Stats. § 125.51(2); retail "Class B" licenses, Wis. Stats. § 125.51(3); reserve "Class B" licenses, Wis. Stats. § 125.51(3)(e)2; retail "Class C" license, Wis. Stats. § 125.51(3m).

**SECTION 74:**            **AMENDMENT** "11-56 Application For License" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-56 Application For License

(a) *General considerations.*

- (1) The Village Board is not required to grant all the licenses available. All applications are subject to an investigation and inspection by the Chief of Police and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. All licenses must be renewed annually. A license period is July 1 to June 30.
- (2) Consideration for the granting or denial of a license will be based on:
  - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322 and 111.335, and Wis. Stats. § 125.12(1)(b);
  - b. The financial responsibility of the applicant;
  - c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - d. Generally, the applicant's fitness for the trust to be reposed.
- (3) If a licensee is convicted of an offense substantially related to the license activity, the Village Board may act to revoke or suspend the license.

- (b) *Contents.* Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by an applicant as provided by Wis. Stats. §§ 887.01—887.04, and shall be filed with the Village Clerk-Treasurer not less than 15 days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (c) *Application.* The application for such licenses shall contain the following information verified under oath by the applicant:
- (1) Address of the building for which the license is desired and the description including a diagram of the overall dimensions, seating arrangements, capacity and bar size of the premises therein, where fermented malt beverages or intoxicating liquors are to be sold.
  - (2) A statement that the applicant is a citizen of the United States, or a domestic corporation, limited liability company or limited liability partnership.
  - (3) A statement as to whether applicant or owner has ever been convicted of any felony or misdemeanor for violation of any federal laws, any state laws, any laws of any other states or ordinances of any municipality, or have any criminal charges presently pending and, if so, the number and the dates of such convictions and the penalty imposed.
  - (4) A statement as to whether the applicant or owner holds or has applied for any other "Class A," Class "A," "Class B" or Class "B" licenses for any other location within the state and, if so, the number of such licenses held or applied for by such applicant.
  - (5) A statement as to whether any other business other than the sale of fermented malt beverages, intoxicating liquor and soft drinks as herein defined is to be conducted on the premises sought to be licensed and, if so, a description of the nature of such business, but such information shall not be required in an application for an operator's license.
  - (6) A statement that the applicant is not acting as agent for or in the employ of another.
  - (7) If the application is a Class "B" or "Class B" license, a statement as to whether any brewer, bottler, wholesaler, or corporation, a majority of whose stock is owned by any brewer, bottler, or wholesaler has or intends to supply, furnish, lease, give, pay for, or take any chattel mortgage on any furniture, fixture, fittings, or equipment to be used in or about the premises covered by the application.
  - (8) If the application is made for a "Class B" or Class "B" license, a statement as to whether any brewer, bottler or wholesaler has advanced, paid or furnished the money for license fee, or intends to do so, or is financially interested in, directly or indirectly, the license for which application is made.
  - (9) The application shall contain the name, residence, and age of the applicant or owner. It shall also contain the name of the person whom a corporation or association shall designate as manager with the address of the same.
  - (10) Such application shall also contain such other reasonable and pertinent

information as the Village Board may, from time to time, require.

- (d) *Corporations.* Such application shall be filed and sworn to by the applicant of an individual, by the president and secretary, of a corporation, limited liability company or limited liability partnership.
- (e) *Publication.* The Village Clerk-Treasurer shall publish each application for a Class "A," Class "B," "Class A," "Class B" or "Class C" license. There is no publication requirement for temporary Class "B" fermented malt beverage licenses under Wis. Stats. § 125.26(6), or temporary "Class B" wine licenses under Wis. Stats. § 125.51(10). The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Wis. Stats. § 985.08.
- (f) *Amending application.* Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten days after the occurrence thereof.

(Code 1998, § 7-2-6; Ord. No. 2003-02, §§ 82, 83, 1-27-2002)

**State law reference(s)**—General licensing requirements, Wis. Stats. § 125.04.

**SECTION 75:            AMENDMENT “11-57 Qualifications Of Applicants And Premises” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

##### 11-57 Qualifications Of Applicants And Premises

- (a) *Residence requirements.* A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the state continuously for at least 90 days prior to the date of the application.
- (b) *Applicant to have malt beverage license.* No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) *Right to premises.* No applicant will be considered unless the applicant has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) *Age of applicant.* No Class "A," "Class A," Class "B" or "Class B" licenses shall be granted to any underage person as defined by the Wisconsin Statutes.
- (e) *Corporate restrictions.*
  - (1) No license or permit may be issued to any corporation, limited liability company or limited liability partnership unless the entity meets the qualifications under Wis. Stats. § 125.04(a)1 and 4 and (b), unless the agent of the entity appointed under Wis. Stats. § 125.04(6) and the officers and

directors, or members or managers, of the entity meet the qualifications of Wis. Stats. § 125.04(a)1 and 3 and (b) and unless the agent of the entity appointed under Wis. Stats. § 125.04(6) meets the qualifications under Wis. Stats. § 125.04(a)2 and 5(c). The requirement that the entity meet the qualifications under Wis. Stats. § 125.04(a)1 and (b) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

- (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the name and addresses of the persons who are stockholders together with the amount of stock held by such person. It shall be the duty of each corporate applicant and licensee to file with the Village Clerk-Treasurer a statement of transfers of stock within 48 hours after such transfer of stock.
  - (3) Any license issued to a corporation, limited liability company or limited liability partnership may be revoked in the manner and under the procedure established in Wis. Stats. § 125.12, when more than 50 percent of the stock interest, legal or beneficial, in such corporation, limited liability company or limited liability partnership is held by any person not eligible for a license under this Article or under the state law.
- (f) *Separate license required for each place of sale.* A separate license shall be required for each stand or place that is in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.
- (g) *License quotas.*
- (1) No more than the number of retail "Class B" licenses permitted under Wis. Stats. § 125.51(4), shall be granted by the Village.
  - (2) The Village may utilize the annual population estimate received from the Wisconsin Department of Administration Demographic Service Center or the Bureau of Census of the United States Government in determining quotas.
- (h) *Licensed premises.* Licenses issued by the Village shall be for the structure itself and shall not confer any license or right to utilize property outside of the licensed structure, unless specifically provided for in the license or otherwise authorized by the Village Board. All sales of intoxicating liquors and fermented malt beverages within the Village shall be limited to and shall be made upon the premises described within the license granted by the Village Board. Specifically prohibited by this Section is the sale and delivery of alcohol beverages by food delivery services.
- (i) *Issuance for sales in dwellings prohibited.* No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any alcohol beverages in any dwelling house, flat, or residential apartment.
- (j) *Delinquent taxes, assessments, etc.*
- (1) *Premises.* No initial or renewal alcohol beverage license shall be granted for any premises for which Village taxes, assessments, forfeitures, utility bills, garbage collection fees, sewer and water bills or other assessments or other

claims to the Village are delinquent and unpaid.

- (2) *Persons*. No initial or renewal alcohol license shall be granted to any person:
- a. Delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owned to the Village.
  - b. Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village.
- (k) *Sales tax qualification*. All applicants for retail licenses shall provide proof, as required by Wis. Stats. § 77.61(11), that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued licenses.
- (l) *Connecting premises*. Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- (m) *Limitations on other business; Class "B" premises*. No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
- (1) A hotel.
  - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
  - (3) A combination grocery store and tavern.
  - (4) A combination sporting goods store and tavern in towns, villages and fourth-class cities.
  - (5) A combination novelty store and tavern.
  - (6) A bowling alley or recreation premises.
  - (7) A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the Class "B" license or permit.

(Code 1998, § 7-2-7; Ord. No. 2003-02, § 84, 1-27-2002)

**SECTION 76:        AMENDMENT "11-58 Investigation; Approval Of Application" of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

11-58 Investigation; Approval Of Application

- (a) Every application for a new license or renewal of a license shall be reviewed by the Chief of Police, Fire Inspector and Building Inspector, and these officials shall inspect or cause to be inspected the proposed licensed premises and shall report on whether the premises complies with applicable laws, regulations and ordinances. No license shall be renewed without a re-inspection of the premises. Each official shall provide a report of his or her inspection findings to the Village\_Clerk-Treasurer.
- (b) The Chief of Police shall investigate the background of every license applicant to determine the applicant's fitness to hold such license, and the Chief shall report his or her findings to the Village Clerk-Treasurer, along with recommendations as to whether the license should be issued or renewed. The Chief of Police shall maintain records of all incidents related to a licensed premises, and whether there was actual prosecution and/or conviction for the incident, and shall include this history with any recommendation for denial of the license.
- (c) For new licenses in which the inspecting officials recommend approval of the application, the matter will be referred to the Public Safety Committee for review and recommendation to the Village Board. For renewal of licenses in which the inspecting officials recommend renewal of the license, the Village Clerk-Treasurer may refer the application for renewal directly to the Village Board for approval instead of the Public Safety Committee.
- (d) If any inspecting official recommends denial of a new license, the Village Clerk-Treasurer shall notify the applicant of the recommendation and that the application will be considered by the Public Safety Committee. The notice shall set forth the basis of the recommendation and shall inform the applicant of the opportunity to appear before the Public Safety Committee to provide evidence as to why the application should be approved. At the conclusion of the meeting, the Public Safety Committee shall make a recommendation to the Village Board on whether the license should be granted.
- (e) If there is a recommendation for non-renewal of a license, the procedure under Section 11-67(d) shall be followed, including notice to the applicant and a right to a hearing.
- (f) In determining whether to grant such license, consideration shall be given to the arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322 and 111.335 and Wis. Stats. § 125.12(1)(b); financial responsibility of the applicant, the appropriateness of the location and premises where such licensed business is to be conducted, and generally the applicant's fitness for the trust to be reposed. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses that are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board, and the Public Safety Committee in making its recommendation, reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license.
- (g) If the Village Board denies the license, the applicant shall be notified in writing, by

certified mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. Such written notice shall be mailed or served upon the applicant at least ten days prior to the Village Board meeting at which the application is to be reconsidered. If, upon reconsideration, the Village Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to Circuit Court pursuant to Wis. Stats. § 125.12(2)(d), for review.

(Code 1998, § 7-2-8; Ord. No. 2003-02, §§ 85—87, 1-27-2002)

**SECTION 77:**            **AMENDMENT** “11-60 Granting Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-60 Granting Of License**

Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Village Board, the Village Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Village.

(Code 1998, § 7-2-10; Ord. No. 2003-02, § 88, 1-27-2002)

**SECTION 78:**            **AMENDMENT** “11-61 Transfer And Lapse Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-61 Transfer And Lapse Of License**

- (a) In accordance with the provisions of Wis. Stats. § 125.04(12), a license shall be transferable from one premises to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form furnished by the Village Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. Whenever a license is transferred, the Village Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or

business premises must apply to the Village for reissuance of said license and the Village, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Village Clerk-Treasurer written notice of said replacement, the reasons therefore and the new appointment. An application for change of agent shall be made on a form furnished by the Village Clerk-Treasurer. A fee for such transfer shall be the fee established by the Village Board from time to time and provided in Appendix A of this Code. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall be invalid upon receipt by the Village Clerk-Treasurer of notice of disapproval of the successor agent by the Department of Revenue or other peace officer of the Municipality in which the license was issued. The Corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent and another qualified agent is appointed and approved by the Village and the Wisconsin Department of Revenue.

(Code 1998, § 7-2-11; Ord. No. 2003-02, §§ 89, 90, 1-27-2002; Ord. No. 2009-25, § 1, 12-14-2009)

**State law reference(s)**—Transfer of licenses or permits, Wis. Stats. § 125.04(12).

**SECTION 79:**        **AMENDMENT** “11-62 Numbering Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-62 Numbering Of License

Each license issued under the provisions of this Article shall be numbered and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The Village Clerk-Treasurer shall affix the Village seal to the license.

(Code 1998, § 7-2-12; Ord. No. 2003-02, § 91, 1-27-2002)

**SECTION 80:**        **AMENDMENT** “11-67 Revocation And Suspension Of Licenses; Nonrenewal; Subsequent Changes” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

## 11-67 Revocation And Suspension Of Licenses; Nonrenewal; Subsequent Changes

(a) *Procedure.* Whenever the holder of any license under this Article violates any portion of this Article or Chapter 38, Article IV, proceedings for the revocation, suspension or nonrenewal of such license may be instituted in the manner and under the procedure established by this Section.

(b) *Cancellation of premised licenses.*

(1) *Grounds for cancellation for nonuse of license.* Any "Class A," Class "A," "Class B" or Class "B" fermented malt and/or intoxicating liquor licenses granted under this Article for which the subject premises:

- a. Is not open for business within 30 days of the granting of such license;
- b. Is not open for business for a period of 180 consecutive days or more; or
- c. Is not open for business at least 50 percent of the days within any 12 month period, either within a licensing year or overlapping two licensing years;

shall be cancelled unless, after notice and hearing as provided in Subsection (b)(2) of this Section, the Village Board shall determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth in this Subsection. If such cause is found to exist, the Village Board may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license.

(2) *Notice and hearing.* Prior to cancellation of any license, the Village Clerk-Treasurer shall notify the licensee in writing of the Village's intention to cancel the license for nonuse and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than 15 days after the date of the notice. Such hearing shall be conducted as provided in accordance with Wis. Stats. § 125.12(2)(b).

(c) *License revocation or suspension.*

(1) *Notice and hearing.* Whenever a person holding a license to sell alcohol beverages has failed to maintain the premises according to standards prescribed for sanitation, or in whose premises persons are permitted to loiter for purposes of prostitution, or when the licensee has not observed and obeyed any lawful order of the Village Board or police officers of the Village, has violated Village ordinances, or for any other good reason, including the reasons set forth in Wis. Stats. § 125.12(2)(ag) or any amendment thereto, the Village Board shall issue a summons, to be signed by the Village Clerk-Treasurer commanding the licensee complained of to appear before the Village Board on a day and time and at a place named in the summons to show cause why the license should not be revoked or suspended. In addition, any resident may file a sworn, written complaint with the Village Clerk-Treasurer, as may the Public Safety Committee following prior investigation and determination

of the matter. Such summons shall be served not less than three and not more than ten days before the time at which the licensee is commanded to appear and shall be served on the licensee in the manner provided under Wis. Stats. Ch. 801, for service in civil actions in circuit court. The complaint shall be served with the summons and shall set forth the offense allegedly committed, the date and place of said offense and the facts constituting the alleged offense. If such licensee shall not appear as required by the summons, the complaint shall be taken as true, and if the Village Board deems its allegations sufficient, the Village Board shall revoke or suspend the license as provided herein.

**(2) Procedure on hearing; effect of revocation.**

- a. The Village President or, in the Village President's absence, the Village President Pro Tem, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Wis. Stats. § 68.11, shall be followed. The complainant shall have the burden of providing the charges to a preponderance of the evidence. The licensee and the complainant may be represented by counsel, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If either party requests a stenographic recording and transcription, the Village shall make the necessary arrangements, but the expenses shall be borne by the requesting party. The Village Clerk-Treasurer shall serve as secretary to the Village Board and shall make and receive all exhibits admitted into the record. The Village Board, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true. If the Village Board finds the complaint to be true, the license shall either be suspended for not less than ten days nor more than 90 days or revoked. The Village Clerk-Treasurer shall give notice of each suspension or revocation to the person whose license is suspended or revoked.
- b. If the complaint is found to be true, the licensee shall pay to the Village the actual cost of the proceedings. If the complaint is found by the Village Board to be malicious and without probable cause, the complainant shall pay the cost of the proceedings in the same amount.
- c. When a license is revoked, it shall be so entered of record by the Village Clerk-Treasurer, and no other license shall be granted to such licensee or for such premises for a period of 12 months from the date of the revocation, nor shall any part of the money paid as application fee for any license so revoked be refunded.

**(d) Nonrenewal of license.**

- (1) *Notice.* The Village Board may refuse to renew a license for the causes provided in Wis. Stats. § 125.12 (2)(ag). Prior to the time for renewal of the license, the Chief of Police shall notify the licensee, in writing, of the Chief of Police's intention to recommend to the Public Safety Committee that the

license not be renewed. The notice shall provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the Chief of Police's recommendation not to renew the license.

- (2) *Request for hearing.* If the licensee requests a hearing, the hearing shall be conducted by the Public Safety Committee not less than three days nor more than ten days after the Village receives a written request, as provided in Subsection (c)(2) of this Section and Wis. Stats. § 125.12(2)(b).
- (3) *Hearing before Public Safety Committee.* If a hearing is held before the Public Safety Committee, the Public Safety Committee shall submit a report, including findings of fact, conclusions of law and a recommendation as to what action the Village Board should take with respect to the license. The Public Safety Committee shall provide a copy of the report to the licensee.
- (4) *Objections to committee report.* The licensee may file a written objection to the report with the Village Clerk-Treasurer within ten days of receipt of the report, and shall have the opportunity to present arguments supporting the objection to the Village Board. The Village Board may require the licensee to orally present arguments supporting the objection during a meeting of the Village Board, or may rely on the argument raised in the written objection filed with the Village Clerk-Treasurer.
- (5) *Action by Village Board.* The Village Board shall review the Public Safety Committee's report and any arguments presented by the licensee and determine whether to renew the license. If there is no objection to a report recommending nonrenewal of a license, the license shall not be renewed.

(e) *Subsequent changes.*

- (1) After issuance of a license, whenever anything occurs to change any fact set forth in the license application or renewal form, the licensee shall file with the Village Clerk-Treasurer written notice within ten days after the occurrence thereof.
- (2) After issuance of a license, should the licensee under a retail "Class B" intoxicating liquor license wish to change the licensed premises from a restaurant into a tavern, or from a tavern into a restaurant, the licensee shall file with the Village Clerk-Treasurer a written notice setting forth said desire not less than 60 days prior to the contemplated change. The Village Clerk-Treasurer shall refer the notice to the Village Board, which shall schedule a public hearing as soon thereafter as possible, which shall be attended by the licensee. At the hearing, the licensee shall be given the opportunity to be heard as to why the Village Board should approve the change. The Village Board shall provide for an orderly opportunity for all other persons to be heard on the subject. Following the hearing, the Village Board shall approve or disapprove of the proposed change and will issue a written decision upon the request of any interested person.
- (3) Failure by the licensee to notify the Village under either of the above applicable procedures shall be grounds for suspension, nonrenewal, or revocation of the licensee's license.

(f) *Other provisions.* Any license issued pursuant to this Article shall be subject to such

further regulations and restrictions as may be imposed by the Village Board by amendment to this Section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations such licensee's license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Article in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

(Code 1998, § 7-2-17; Ord. No. 2003-02, §§ 92—99, 1-27-2002)

**State law reference(s)**—Subsequent changes, Wis. Stats. § 125.04(3)(h); revocation, suspension, refusal to issue or renew, Wis. Stats. § 125.12.

**SECTION 81:**        **AMENDMENT** “11-69 Outdoor Sports Activities Regulated” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-69 Outdoor Sports Activities Regulated

- (a) *Purpose.* The Village Board finds that restrictions are necessary for outdoor sports activities at premises holding "Class B" intoxicating liquor or Class "B" fermented malt beverage licenses due to concerns arising from noise, density and related problems. This Section enacted pursuant to police power, provides a framework for regulatory controls on such outdoor sports activities, enacted pursuant to police powers.
- (b) *Approval required.* No licensee shall conduct or sponsor any outdoor sports activity or event on property forming any part of the real property on which the licensed premises exist without the prior approval of the Public Safety Committee which shall take into consideration the recommendation of the Plan Commission with respect to the plans and description of the proposed outdoor sports area.
- (c) *Application.* If a licensee desires to conduct or sponsor an outdoor sports activity or event on the licensee's property, the licensee shall file an application with the Village Clerk-Treasurer setting forth the following information:
  - (1) The name, address and telephone number of the person who will be responsible for the actual conduct of the activity or event;
  - (2) The date and duration of time for the proposed activity or event;
  - (3) An accurate description of that portion of the licensee's property proposed to be used;
  - (4) A good faith estimate of the number of participants and spectators for the proposed activity or event; and
  - (5) The licensee's plan for maintaining the cleanliness of the licensed area.
- (d) *Time for filing.* The licensee shall file the application not less than 30 days before the

- date of the proposed activity or event. The Public Safety Committee may waive the 30-day time limit upon a licensee's showing of exigent circumstances. The application shall be accompanied by a payment of the fee established by the Village Board from time to time and provided in Appendix A to this Code for review of the application.
- (e) *Review.* The Public Safety Committee shall review the applications in light of the standards of this Section. If the nature of the property or the event requires the imposition of additional regulations, the Public Safety Committee may impose these regulations upon an express finding detailing the reasons for additional regulation.
- (f) *Standards.* The following standards shall apply to any outdoor sports activity regulated under this Section:
- (1) Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property. Outdoor consumption shall be permitted only in outdoor areas included within licensed premises pursuant to Section 11-64(n).
  - (2) If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the licensee shall provide a number of portable temporary restrooms sufficient to service the estimated number of persons.
  - (3) The Public Safety Committee shall not grant approval to any applicant where the outdoor sports area is within 200 feet of any dwelling.
  - (4) The applicant shall provide parking adequate for the proposed activity or event, whether on-site or through agreements with property owners shown to the Public Safety Committee's satisfaction to permit their property to be used for parking for the proposed activity or event.
  - (5) The applicant shall show the Public Safety Committee plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons.
  - (6) If the proposed outdoor sports area is on a property that, at the time of the original application is adjacent to any residential property or within 70 feet of any residential property the regulations set forth in subparagraphs a. through c. of this paragraph shall apply. For purposes of this section, a "residential property" is any property, located in a zoning district identified in Section 62-69 of the McFarland Municipal Code, excluding the A-1 or CO district, upon which a residential use exists as a legal or legal-nonconforming use, or upon which a residential use is to commence as evidenced by a building permit authorizing creation of a residential use having been filed with the Building Inspector.
    - a. Outdoor lighting shall conform to an approved lighting plan prepared by a professional lighting engineer. The plan shall certify that the outdoor lighting shall not permit any light trespass onto any residential property greater than .01 footcandles.
    - b. Whistles shall not be used except as required to call for stoppage of play.
    - c. Use of the outdoor sports area shall be limited to the period between

April 1 and November 1.

- (7) If persons under the age of 21 are allowed to be present on the licensed premises, all persons 21 years of age or older who intend to consume alcohol beverages in the outdoor sports area, shall be issued a wristband that is bright in color which shall be issued only upon showing valid identification proving the person is 21 years of age or older.
- (8) The outdoor sports area shall have all lights for competition turned off and no alcohol shall be possessed or consumed within the outdoor sports area after 9:30 p.m.
- (g) *Maintenance standards.* The licensee shall clean up all garbage and debris relating to the activity or event at least once per 24 hours during the activity or event.
- (h) *Violations.* Failure of the licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the licensee's alcohol beverage license.

(Code 1998, § 7-2-19; Ord. No. 2003-02, § 100, 1-27-2002; Ord. No. 2004-26, § 5, 12-13-2004; Ord. No. 2013-01, § 3, 4-22-2013; Ord. No. 2015-07, §§ 6—11, 7-27-2015; Ord. No. 2016-01, §§ 2, 3, 1-25-2016)

**SECTION 82:            AMENDMENT “11-70 Operator's License” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

##### 11-70 Operator's License

- (a) *Operator's licenses; Class "A," Class "B" or "Class C" premises.* Except as provided under Wis. Stats. §§ 125.32(3)(b) and 125.07(3)(a)10, no premises operated under a Class "A," Class "B," or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Wis. Stats. § 125.27(2), is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Wis. Stats. § 125.18, or any member of the licensee's or permittee's immediate family who has attained the age of 18, shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A," Class "B," or "Class C" license or permit unless the person has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

- (b) *Temporary operator's licenses.* The Village Clerk-Treasurer may issue temporary operator's licenses. Such licenses may be valid for between one and 14 days, which period shall be stated on the license. Such temporary licenses shall be issued only to those persons employed by or donating their services to a nonprofit organization holding a license under Section 11-49(a) or (b). No person may hold more than two temporary operator's license per year.
- (c) *Provisional operator's licenses.*
- (1) The Village Clerk-Treasurer shall issue a provisional operator's license to any person who has completed the application for an operator's license under Section 11-71(a), is eligible for a license according to the investigation conducted under Section 11-71(b), has paid the fees under Section 11-73(a) and (c) and has enrolled in the training course under Section 11-71(c). The Village Clerk-Treasurer shall also issue a provisional license to any person who, at the time of application for an operator's license and payment of the fees under Section 11-73(a) and (c), files a certified copy of a valid operator's license issued by another municipality of the state.
  - (2) A provisional license may not be issued to any person who has been denied an operator's license by the Village.
  - (3) A provisional license shall expire 60 days after its issuance, upon issuance of an operator's license, or if a provisional license is issued on the basis of a certified copy of a valid operator's license in another municipality, upon expiration of the operator's license from the other municipality whichever comes sooner.
- (d) *Use by another prohibited.*
- (1) No person may allow another to use such person's Class "A" or Class "B" license or permit to sell alcohol beverages.
  - (2) The license or permit of a person who violates Subsection (d)(1) of this Section shall be summarily revoked by the Village Clerk-Treasurer.

(Code 1998, § 7-2-30; Ord. No. 2004-26, §§ 6—8, 12-13-2004)

**State law reference(s)**—Operator's licenses, Wis. Stats. §§ 125.32(2), 125.68(2); temporary license, Wis. Stats. § 125.17(4); provisional license, Wis. Stats. § 125.17(5).

**SECTION 83:**        **AMENDMENT** “11-71 Procedure Upon Application For Operator's License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

#### 11-71 Procedure Upon Application For Operator's License

- (a) *Application.* An operator's license may be issued to qualifying individuals meeting the

applicable requirements set forth under Wis. Stats. § 125.04(5) and this Section. Applications for operator's licenses must be submitted on a form provided by the Village Clerk-Treasurer, and shall include the following information:

- (1) Name, address, home, and work phone numbers.
- (2) Date of birth, gender, Social Security number, and driver's license or state identification card number.
- (3) Whether the applicant has completed a responsible beverage server training course pursuant to Wis. Stats. § 125.17(6).
- (4) Whether the applicant has held an operator's license within the previous two years. If one has been held in a different municipality, a copy of the license or a letter from the clerk of the municipality shall be provided.
- (5) The applicant's arrest and conviction record substantially related to the licensed activity, including:
  - a. Whether the applicant has ever been convicted of a felony.
  - b. Whether the applicant has been arrested for and/or convicted of violating any law or ordinance during the last ten years.
  - c. Whether the applicant has any pending charges, including criminal and ordinance violations.

If so, the applicant shall provide the details of each arrest, conviction and charge, including:

- a. The dates of the arrest and conviction.
- b. The specific offense for which the applicant was arrested or charged.
- c. The name and location of the court that adjudicated the case, and case number.
- d. A description of the nature and circumstances of the offense.
- e. Whether the applicant was consuming alcohol beverages or drugs at the time of the incident, not including non-impairing medications prescribed to the applicant.
- f. Whether the incident occurred in or around an establishment that serves alcohol beverages.
- g. Whether the incident involved alcohol beverages or controlled substances in any other way.

The applicant may also submit evidence of rehabilitation and fitness to perform the licensed activity.

- (6) Whether the applicant has had a license to serve alcohol beverages suspended, revoked, or surrendered in lieu of suspension or revocation and if so, the name of the municipality and the date the license was suspended, revoked, or surrendered.
  - (7) The address and date of residency for each place the applicant has resided for the previous five years.
  - (8) Any other information required by the Village Clerk-Treasurer or Chief of Police to run all required background checks or to otherwise process the application.
  - (9) Any other information required by the Village Board.
- (b) *Investigation.* All applications are subject to an investigation by the Police Department

and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. The Police Department shall investigate the applicant and, as part of that investigation, request information from the state, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Police Department shall issue written recommendations to grant or deny the license. If the Police Department recommends denial, the Police Department shall provide, in writing, the reasons for such recommendation. The recommendation for denial shall be forwarded to the Public Safety Committee for further review and a recommendation to the Village Board. If the Police Department finds the application to be incomplete or omitting any required information from Subsection (a), the application shall be rejected and returned to the applicant.

(c) *Training course.*

- (1) Except as provided in Subsection (c)(2) of this Section, the Village Clerk-Treasurer may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course, which may include computer-based training and testing that is approved by the department or the educational approval board or unless the applicant fulfills one of the following requirements:
  - a. The person is renewing an operator's license.
  - b. Within the past two years, the person held a Class "A," Class "B," "Class A," "Class B" or "Class C" license or permit or a manager's or operator's license.
  - c. Within the past two years, the person has completed such a training course.
- (2) The Village Clerk-Treasurer may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (c)(1) of this Section and who meets the standards established by the Village and shall revoke that license if the applicant fails to successfully complete the course in which the applicant enrolls.
- (3) The Village Clerk-Treasurer may not require that applicants for operator's licenses undergo training in addition to that under Subsection (c)(1) of this Section, but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (c)(1) of this Section.

(Code 1998, § 7-2-31; Ord. No. 2003-02, § 101, 1-27-2002; Ord. No. 2003-06, § 1, 4-14-2004)

**State law reference(s)**—Qualifications for licenses and permits, Wis. Stats. § 125.04(5); training course, Wis. Stats. § 125.17(6).

**SECTION 84:            AMENDMENT “11-74 Issuance Or Denial Of Operator's License” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**11-74 Issuance Or Denial Of Operator's License**

- (a) *Issuance of approved licenses.* If the Police Department recommends granting the operator's license, or the Village Board approves granting the operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall state the applicant's name and address and the date of the expiration of such license. The Village Clerk-Treasurer shall make the license available for pick up at the Village Clerk-Treasurer's office. Any operator's license for which the fee is not paid within 15 days of approval of the application by the Village Board shall be ~~returned to the~~canceled by the Village Clerk-Treasurer ~~for cancellation or other disposition.~~
- (b) *Denial.*
- (1) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the Village Board. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the Village Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
  - (2) If upon reconsideration, the Village Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license may apply to Circuit Court pursuant to Wis. Stats. § 125.12(2)(d), for review.
- (c) *Basis for denial.*
- (1) Consideration for the granting or denial of a license will be based on:
    - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322, and 111.335, and Wis. Stats. § 125.12(1)(b);
    - b. Reserved;
    - c. Generally, the applicant's fitness for the trust to be reposed.
  - (2) If a licensee is convicted of an offense substantially related to the licensed activity.
  - (3) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a

right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses that are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

(Code 1998, § 7-2-34; Ord. No. 2003-02, §§ 103—105, 1-27-2002)

**State law reference(s)**—Revocation, suspensions, refusals to issue, Wis. Stats. § 125.12.

**SECTION 85:**        **AMENDMENT** “11-99 Application For License, Fee” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-99 Application For License, Fee

Every person, firm or corporation desiring a license under this Section shall file with the Village Clerk-Treasurer a written application, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Clerk-Treasurer and shall name the licensee and the place such licensee is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Clerk-Treasurer the license fee established by the Village Board from time to time and provided in Appendix A to this Code.

(Code 1998, § 7-3-1(b); Ord. No. 98-20, § 2, 12-14-1998; Ord. No. 2003-02, § 106, 1-27-2002)

**State law reference(s)**—License application and fee, nontransferable, Wis. Stats. § 134.65(2)(b), (3).

**SECTION 86:**        **AMENDMENT** “11-100 Issuance, Conditions And Term Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-100 Issuance, Conditions And Term Of License

- (a) Such licenses shall be issued by the Village Clerk-Treasurer.
- (b) The licensee shall comply with the restrictions and training requirements set forth in

Wis. Stats. § 134.66.

- (c) Each license shall be issued on July 1 in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30 unless sooner revoked for any violation of this Section.

(Code 1998, § 7-3-1(c); Ord. No. 2003-02, § 107, 1-27-2002)

**Editor's note(s)**—Ord. No. 2017-08, § 5, adopted March 13, 2017, changed the title of § 11-100 from "Issuance and term of license" to read as herein set out.

**State law reference(s)**—Issuance, records to be kept, penalty for violations, Wis. Stats. § 134.65(4), (5).

**SECTION 87:**        **AMENDMENT** "11-131 Exemptions" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-131 Exemptions

The following shall be exempt from all provisions of this Article other than Section 11-134(2)—(4) and (6) and Section 11-133:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling goods at wholesale to dealers in such goods;
- (c) Any person selling agricultural products from commercially zoned property which such person has grown unless such sales are made door-to-door;
- (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods or services regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
- (e) Any person who has an established place of business within the McFarland School District where the goods or services being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) A person fundraising for a youth sport or activity, school club, or other not-for-profit community organization or club, in which the sale of goods is a component of the fundraising, including but not limited to, the sale of cookies, popcorn, and holiday decorations;
- (h) Any person holding a sale required by statute or by order of any court and any person

- conducting a bona fide auction sale pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in solicitation of funds on behalf of said organization, provided that there has been submitted to the Village Clerk-Treasurer proof that such charitable organization is registered under Wis. Stats. § 440.41 et seq., or which is exempt from that statute's registration requirements;
  - (j) Any person selling goods when authorized pursuant to an event permit issued by the Village, pursuant to Chapter 36;
  - (k) Any person at a farmers' market selling fruits, vegetables, meats, cheeses, baked goods and hand-crafted items that the person or his or her family produced. This exemption does not extend to the resale or wholesale of products, and the sale of additional goods and products not produced by the seller or his or her family.

(Code 1998, § 7-4-3; Ord. No. 2003-02, § 109, 1-27-2002)

**SECTION 88:**        **AMENDMENT** "11-132 Direct Seller License" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-132 Direct Seller License

- (a) *Required information.* Applicants for a license as a direct seller must complete and return to the Village Clerk-Treasurer a license application furnished by the Village Clerk-Treasurer, which shall require the following information:
  - (1) Name, permanent address and telephone number, and temporary address, if any, from which business will be conducted;
  - (2) Age, height, weight, color of hair and eyes, and date of birth;
  - (3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
  - (4) The time period for which the right to conduct business is desired;
  - (5) Nature of business or solicitation to be conducted and a brief description of the goods or services offered;
  - (6) Proposed method of delivery of goods, if applicable;
  - (7) Make, model and license number of any vehicle to be used by the applicant in the conduct of direct sales in the Village;
  - (8) Last cities, villages or towns, not to exceed three, where the applicant most recently conducted similar business or solicitation prior to making this application;
  - (9) Address and telephone number where the applicant can be contacted for at least seven days after leaving this Village or completing the direct sales activity, whichever occurs first;

- (10) Statement as to whether the applicant has any pending criminal charges, and whether the applicant has been convicted of any misdemeanor crime or ordinance violation (other than parking and traffic violations) during the previous five (5) years, or any felony crime within the previous ten (10) years, along with a description and the circumstances of each violation or offense.
- (b) *Documentation.* Applicants shall present to the Village Clerk-Treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
  - (2) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
  - (3) A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made;
- (c) *Application fee.* At the time of filing the application, the fee established by the Village Board from time to time and provided in Appendix A to this Code shall be paid to the Village Clerk-Treasurer to cover the cost of processing the application and investigation of the applicant.
- (d) *Investigation.* Upon receipt of the application, the Village Clerk-Treasurer shall refer it immediately to the Chief of Police, who shall cause a complete investigation of the applicant based upon the information in the application and report the findings of such investigation to the Village Clerk-Treasurer.
- (e) *Issuance of license.*
- (1) *Standards for issuance.* The Village Clerk-Treasurer shall issue a license authorizing the direct sales described in the application as soon as practicable following receipt of a report from the Chief of Police, unless the Village Clerk-Treasurer determines one or more of the following:
    - a. The application is incomplete, or information required by Subsection (a) has not been provided.
    - b. The application or supporting documents contain any false or materially misleading information or any material omission.
    - c. The applicant has pending criminal charge that is substantially related to the licensed activity and is an "exempt offense" as defined under Subsection (f)(2) or is a violent crime against a child, or the applicant been convicted of a misdemeanor crime or ordinance violation during the previous five (5) years, or a felony crime during the previous ten (10) years, the circumstances of which substantially relate to the circumstances of direct sales activities.
  - (2) *License provisions.* If the Village Clerk-Treasurer determines that the applicant meets the requirements of this Section, or if the Village Board determines to issue the license after appeal, the Village Clerk-Treasurer shall issue a license to the applicant as a direct seller and date the entry. Licenses may be issued

with an effective period of seven days, 30 days or the calendar year. The licensee shall thereupon sign a statement appointing the Village Clerk-Treasurer as agent for receipt of service of process in any civil action brought against the applicant arising out of the performance or nonperformance of any sale or service performed by the licensee in connection with the direct sales activities in the event the licensee cannot, after reasonable effort, be served personally. All licenses are subject to subsequent revocation, as provided in Section 11-136.

**(f) *Non-issuance by the Village Clerk-Treasurer.***

- (1) Except as provided in Subsection (2), if an application is not approved by the Village Clerk-Treasurer pursuant to Subsection (e)(1)(c), the Village Clerk-Treasurer shall provide to the applicant in writing a statement of the reasons for the denial, including a statement of how the circumstances of each offense which is the basis for the denial relates to direct sales activities, and provide a copy of the written denial to the applicant. The written notice to the applicant shall also provide notice of a right to a hearing under paragraph (g). Written notice is complete upon mailing.
- (2) Subsection (1) does not apply to any offense that constitutes an "exempt offense," which includes a violation specified in Wis. Stats. Ch. 940, Wis. Stats. §§ 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, or a violation of the law of another jurisdiction that would be a violation of an above-described offense if committed in this state.

**(g) *Appeals.***

- (1) Any person whose application has not been approved by the Village Clerk-Treasurer may appeal that decision to the Public Safety Committee by providing written notice to the Village Clerk-Treasurer within 14 days of the Village Clerk-Treasurer mailing notice of denial of the license.
- (2) Upon appeal, the Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding issuance of the direct seller's license. If the applicant fails to appear before the Public Safety Committee, the Public Safety Committee shall forward a recommendation for non-issuance of the license. At the hearing, both the Village and the applicant may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The hearing shall be recorded.
- (3) Upon any appeal of a license denial based in whole or part on Section 11-132(e)(1)(c), the Public Safety Committee shall consider any evidence of rehabilitation presented by the applicant pursuant to Wis. Stats. § 111.335(4) (d). If the applicant demonstrates rehabilitation and fitness to engage in direct sales activities, the Public Safety Committee shall recommend issuance of license unless it finds grounds other than the applicant's conviction record for denying the application.
- (4) The Village Board shall issue written findings and a decision regarding the issuance of the license within 30 days after the hearing.

(Code 1998, § 7-4-4; Ord. No. 98-20, § 2, 12-14-1998; Ord. No. 2002-02, § 5, 1-14-2002; Ord. No. 2003-02, §§ 110—113, 1-27-2002)

**SECTION 89:            AMENDMENT “11-133 Solicitors Registration Procedure”**  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-133 Solicitors Registration Procedure**

- (a) Applicants for registration as a solicitor shall complete and return to the Village Clerk-Treasurer a signed registration form furnished by the Village Clerk-Treasurer containing the following information:
- (1) Name, address, and telephone number of the charitable person, firm, association, organization or corporation that the solicitor represents or is employed by, together with credentials establishing the relationship;
  - (2) Purpose of the charitable organization;
  - (3) Names, permanent addresses, and telephone numbers of the persons who will actually engage in the soliciting, together with the time periods and routes on which the persons will solicit;
  - (4) A statement of whether the charitable organization is registered with the Wisconsin Department of Regulation and Licensing under Wis. Stats. § 440.41 et seq.;
- (b) At the time for filing the application, the applicant shall present the following to the Village Clerk-Treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
  - (2) If intending to solicit on behalf of a charitable organization required to be registered with the state, a complete copy of the organization's registration form and supporting materials under Wis. Stats. § 440.41 et seq., the latest annual report under Wis. Stats. § 440.41(4), and the registration materials, bond and contract under Wis. Stats. § 440.41(5), (6), and (7);
  - (3) If intending to solicit on behalf of a charitable organization not required to be registered with the state, a copy of the charitable organization's latest filed federal tax form.
- (c) No fee shall be charged for registration of solicitors. The Village Clerk-Treasurer shall examine the application and supporting documents. If the application and supporting documents are complete, the Village Clerk-Treasurer shall register the applicant as a solicitor. The registration shall be valid for one year from the date of issuance.

(Code 1998, § 7-4-5; Ord. No. 2003-02, §§ 114—116, 1-27-2002)

**SECTION 90:            AMENDMENT "11-134 General Regulation Of Direct Sellers And Solicitors" of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**11-134 General Regulation Of Direct Sellers And Solicitors**

**(a) *Prohibited practices.***

- (1) A direct seller or solicitor shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. and all day on legal holidays, except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (3) No direct seller or solicitor shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
- (4) No direct seller or solicitor shall allow rubbish or litter to accumulate in or around the area in which such direct seller or solicitor is conducting business.
- (5) No direct seller or solicitor may call at the rear door of any dwelling except by prior appointment.

**(b) *Disclosure requirements.*** After the initial greeting and before any other statement is made to a prospective customer, a direct seller or solicitor shall expressly disclose the direct seller or solicitor's name, the name of the company or organization the direct seller or solicitor is affiliated with, if any, the identity of goods or services the direct seller or solicitor offers to sell and the purpose of the contact. Each such seller or solicitor shall carry proof in the form of a photo identification card issued and executed by the organization for whom the individual is selling or soliciting demonstrating that the individual is authorized to act on behalf of the company or organization, as well as a copy of the registration or license issued by the Village Clerk-Treasurer. The photo identification card shall be visible at all times when engaged in selling or soliciting. The direct seller or solicitor shall produce such proof and registration or license for inspection by the individual or by any law enforcement officer immediately upon request.

(Code 1998, § 7-4-6; Ord. No. 2003-02, § 117, 1-27-2002)

**SECTION 91:            AMENDMENT “11-155 Registration And Licensing Of Amusement Devices” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**11-155 Registration And Licensing Of Amusement Devices**

**(a) *All devices to be licensed.***

- (1) Any person maintaining, operating or permitting the operation of a mechanical or electronic amusement device shall obtain a license to operate such device from the Village Clerk-Treasurer, unless the premises on which the device is maintained or operated is licensed as a minor or major arcade. The fee for operation of a mechanical or electronic amusement device shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. Such license shall expire on June 30 of each year. The applicant shall submit an application for each place where a mechanical or electronic amusement device is to be operated, stating the name of the owner of the device, the place where the device is to be operated and such other information as the Village Clerk-Treasurer may reasonably require. If the Village Clerk-Treasurer is satisfied that the applicant meets all the requirements of this Section, the Village Clerk-Treasurer shall issue the license. Such license shall be conspicuously displayed on the premises at all times while the device is operable.**
- (2) No person shall make available for public use any video game of chance without a license. The license shall be valid for one year only. A license shall be obtained for each machine and shall specify the premises upon which each machine shall be kept. Neither a major nor minor arcade license shall substitute for a video game of chance license. No person shall be issued more than five licenses for video games of chance nor shall more than five licenses be issued for any individual premises. The fee for a video game of chance license shall be as established in the fee schedule established by the Village Board from time to time and provided in Appendix A to this Code. Applications for a video game of chance license shall follow the same process as required for amusement devices in this Article.**
- (3) No person may offer anything of value for playing of the video game of chance other than continued or free play of the device. Providing anything of value or paying of monies constitutes gambling and subjects the licensee to the laws and ordinances pertaining to illegal gambling.**

**(b) *Minor arcade license.***

- (1) Any person owning or operating a premises on which between four and nine mechanical or electronic amusement devices are kept at any one time shall, in lieu of obtaining a license under Subsection (a) of this Section, obtain a minor**

arcade license for the premises, which shall permit the holder thereof to operate or maintain the specified number of devices on the licensed premises. The fee for a minor arcade license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. Such license shall expire on June 30 of each year.

- (2) The application shall contain the following information:
  - a. Name and address of the applicant.
  - b. Name and address of person responsible for management of the arcade, including list of such person's qualifications, experience and references, and date, place and circumstances of conviction of violation of any local ordinance, state or federal law directly related to the activity proposed to be licensed.
  - c. Complete description of the premises to be licensed.
  - d. Statement of the number of devices to be kept on the premises, describing each by make and type.
  - e. Name of owner of the machines.
  - f. Type of supervision to be provided.
  - g. A zoning permit or current zoning application, if required by the Zoning Administrator.
  - h. Detailed operating plan, including hours of operation and manner of supervision to be provided.
  - i. Such other information as the Village Clerk-Treasurer may reasonably require.
- (3) If the Village Clerk-Treasurer is satisfied that the premises and management thereof meet the requirements of this Section and Section 11-1, the Village Clerk-Treasurer shall submit the application to the Village Board. No minor arcade license shall be valid until approved by the Village Board. The applicant shall display such license conspicuously on the premises at all times during which the arcade is in operation.

(c) *Major arcade license.*

- (1) Any person owning or operating a premises on which ten or more mechanical or electronic amusement devices are kept at any time shall obtain for such premises a major arcade license in lieu of obtaining a license under Subsection (a) of this Section. The fee for a major arcade license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. Such license shall expire on June 30 of each year.
- (2) Application for a major arcade license shall be in writing on forms provided by the Village Clerk-Treasurer and shall contain the information required under Subsection (b)(2) of this Section.
- (3) The operating plan and any restrictions placed on the premises under the zoning permit, if required, shall be incorporated by reference in any arcade license or renewal thereof. No major arcade license shall be valid until approved by the Village Board. The license shall be conspicuously displayed on the premises at all times during which the arcade is in operation.

(Code 1998, § 7-5-2; Ord. No. 2003-02, §§ 118—120, 1-27-2002)

**SECTION 92:**        **AMENDMENT** “11-157 Transferability Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-157 Transferability Of License**

- (a) *Mechanical or electronic amusement device and video game of chance license.*  
Mechanical or electronic amusement device or video game of chance licenses may be transferred from premises to premises during the license year without charge. The holder of such license shall notify the Village Clerk-Treasurer within ten days of the time such transfer is made.
- (b) *Minor arcade license.* A minor arcade license may be transferred from one premises to another or from the holder to another person upon application to the Village Clerk-Treasurer and a payment of the fee established by the Village Board from time to time and provided in Appendix A to this Code. The Village Clerk-Treasurer may grant or deny such application or transfer and, if denied, the applicant has the right of review of such determination under Chapter 2, Article XI before the Village Board.
- (c) *Major arcade license.* Major arcade licenses are not transferable.

(Code 1998, § 7-5-4; Ord. No. 2003-02, §§ 121, 122, 1-27-2002)

**SECTION 93:**        **AMENDMENT** “11-190 Bond” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-190 Bond**

The Village President issuing a permit under this Article shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. A permit shall be issued only upon condition that the applicant submit to the Village Clerk-Treasurer satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000.00 per one person, \$500,000.00 for one accident and property damage coverage of not less than \$500,000.00. The policy shall name the Village as the third party insured.

(Code 1998, § 7-6-1(c)(5); Ord. No. 2003-02, § 123, 1-27-2002)

**State law reference(s)**—Bond, Wis. Stats. § 167.10(3)(e).

**SECTION 94:**            **AMENDMENT** “11-223 Applications” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-223 Applications

- (a) *Required.* All applications for a permit hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least 60 days prior to the licensing period. The Village Clerk-Treasurer shall immediately refer all applications for a license hereunder to the Village Board for public hearing and approval. The license shall be for a period of time as stated in the application or as modified by the Village Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Village Board shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Village Board may approve, approve conditionally or reject the application and reclamation plan. The applicant shall satisfy the requirements of Section 11-1.
- (b) *Financial assurance.* Before a license and reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.

- (2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
  - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Village Attorney, as well as other costs of a similar nature.
  - (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
  - (5) The required performance bond or cash escrow agreement shall be equal to 1 1/4 times the Village Engineer's estimated cost of the required improvements.
  - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- (c) *Fences.* Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (d) *Inspection.* An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Wis. Stats. § 66.122, in order to inspect those premises and to ascertain compliance with this Article.
- (e) *Prohibitions and orders.* Nonmetallic mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Article or if other requirements of this Article are not met.

(Code 1998, § 7-8-5(d)—(h); Ord. No. 2003-02, § 129, 1-27-2002)

**SECTION 95:**        **AMENDMENT** “11-245 Applications” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

11-245 Applications

All applications for permits hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least 60 days prior to the licensing period. The Village Clerk-Treasurer shall immediately refer all applications for permits hereunder to the Village Engineer. The Village Clerk-Treasurer shall issue a permit hereunder only after first receiving the recommendation of the Village Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the plan of operation, if required, as approved by the Village Engineer.

(Code 1998, § 7-8-7(c)(2); Ord. No. 2003-02, § 130, 1-27-2002)

**SECTION 96:            AMENDMENT “11-250 Blasting Procedures And Controls”**  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-250 Blasting Procedures And Controls

- (a) *Energy ratio.* The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:

$$\text{Energy ratio} = 0.5 = 10.823 f^2 A^2$$

where: f = frequency in cycles per second, A = amplitude or displacement in inches

$$\text{Energy ratio} = 0.274 V^2$$

(V = resultant particles velocity expressed in inches per second)

- (b) *Measurement of blasts.* The operator of the quarry operation, when requested to do so by the Village Engineer, shall measure and submit data to substantiate compliance with the formula listed in Subsection (a) of this Section and the operator of the quarry operation, when requested to do so by the Village Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the Village or by the Village Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.
- (c) *Blasting log.* A log in duplicate shall be kept of each blast on forms similar to the one on file with the Village Clerk-Treasurer. The original copy of this blasting log shall be filed with the Village Clerk-Treasurer within 48 hours after the blast, and a copy shall be kept on file at the quarry office.
- (d) *Cover material.* Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot of dirt or other suitable cover material.

(Code 1998, § 7-8-7(e); Ord. No. 2003-02, § 131, 1-27-2002)

**SECTION 97:            AMENDMENT “11-263 License” of the Village of  
McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**11-263 License**

- (a) *Applicability.* No person shall open any adult business without obtaining a license from the Village Clerk-Treasurer. A license may be issued for only one Adult Business located at a fixed and certain premises. Any person operating more than one adult business shall obtain additional licenses for each premises. This Section shall not apply to live theatrical, musical or dance performances occurring or conducted at a theater, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on or the advertising or promotion of employees engaging in nude erotic dancing, and whose receipts from food and beverage sales do not exceed 15 percent of gross receipts.
- (b) *Application.* Applications for an annual adult business license shall be made to the Village Clerk-Treasurer. The Village Clerk-Treasurer shall notify the Chief of Police, Building Inspector, and Fire/EMS Chief of the license application, publish a Class II notice of such application and have the license application submitted to the Public Safety Committee within 30 days of application. Investigating officials shall submit written reports and recommendations to the Public Safety Committee prior to the Public Safety Committee's review of the application. A public hearing shall be held on the application, preceded by a Class II notice. The Public Safety Committee may take any testimony regarding the granting or denial of such license. The Public Safety Committee shall make a report of its findings and recommendations to the Village Board within 60 days of the filing of a complete application.
- (c) *Action.* The Village Board shall either approve, modify or reject the application within 90 days of the application; the reasons for the action taken shall be specified in the written findings of fact of the Village Board.
- (d) *Denial of application.* Whenever an initial application is denied, the Village Clerk-Treasurer shall, within 14 days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held before the Village Board within 30 days of the denial of the application.
- (e) *Probationary period.* If license issuance is approved by a majority of the Village Board, the Village Clerk-Treasurer shall grant an initial applicant a probationary license that, absent any revocation or suspension, shall be valid until the first regular meeting of the Village Board after the expiration of six months from issuance of the

probationary license. An annual license shall be granted by approval of the Village Board at its first meeting after the expiration of the six-month probationary period if, no violations under this Article occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied by the Village Board, the Village shall specify the findings made that support that denial. The applicant may request a hearing pursuant to subsection.

- (f) *License term.* The license granted under this section shall expire on June 30 of each year and each license shall be subject to suspension or revocation as hereinafter provided.
- (g) *Application form.* The application for a license shall be upon a form provided by the Village Clerk-Treasurer. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath. Failure or refusal of the applicant to provide any information for the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this subsection, shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.
- (1) Name, including all aliases, address and date of birth of applicant;
  - (2) Written proof that the individual is at least 18 years of age;
  - (3) All residential addresses of the applicant for the past ten years;
  - (4) The business, occupation, or employment of the applicant for ten years immediately preceding the date of application;
  - (5) The exact nature of the activities to be conducted at the adult business;
  - (6) Whether the applicant previously operated in this or any other state, county or municipality under an adult business license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
  - (7) All criminal or civil forfeiture convictions, whether federal or state, or municipal ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses for which no jail or prison sentence may be imposed as a penalty for violation;
  - (8) Fingerprints and two portrait photographs of at least two inches by two inches of the applicant;
  - (9) The address of the adult oriented establishment to be operated by the applicant;
  - (10) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, and the name and address of the registered agent of the corporation;
  - (11) Zoning district in which the proposed business is located;
  - (12) A statement regarding whether the business complies with Section 11-264(e), including the specific distances from each specified zoning district or use.

- (h) **Eligibility.** To receive a license to operate an adult business, an applicant must meet the following standards:
- (1) If the applicant is an individual:
    - a. The applicant shall be at least 18 years of age;
    - b. Subject to Wis. Stats. §§ 111.321, 111.322 and 111.335, the applicant shall not have been convicted of or pleaded nolo contendere to a felony, any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction, or two or more convictions of any kind, excluding traffic violations, within five years immediately preceding the date of the application; and
    - c. The applicant shall not have been found to have previously violated this Section within five years immediately preceding the date of the application.
  - (2) If the applicant is a corporation each officer, director and any other individual required to be identified in the application shall meet the same requirements as those for an individual applicant.
  - (3) If the applicant is a partnership, joint venture, limited liability company or any other type of organization, all persons having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall meet the same requirement as those for an individual applicant.
  - (4) **Investigation.** No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Village Clerk-Treasurer no later than 14 days after the application.
  - (5) **Inspection.** The Community Development Director, Building Inspector, Fire/EMS Chief, and Chief of Police or their designees shall inspect the premises proposed to be licensed to verify compliance with all applicable regulations under their purview, and shall report compliance findings to the Village Clerk-Treasurer within 14 days of the date of application.
- (i) **Fee.** Each application for a new license shall be accompanied by a fee of \$1,000.00. If for any reason the license is denied, one-half of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the Village. Renewal applications shall be accompanied by a fee of \$500.00.
- (j) **Number of licenses limited.** No more than two annual licenses shall be issued to license holders within the Village of McFarland at one time for adult businesses that provide adult entertainment to be viewed or enjoyed on the business premises. This number shall increase to three when the population of the Village exceeds 10,000 persons and shall increase by one additional license upon each additional increase in population of 5,000 persons, but shall not exceed five licenses except by amendment of this subsection. This limitation does not apply to adult bookstores, video stores or novelty shops where the viewing of adult content is strictly and clearly incidental to the sale of merchandise for viewing or enjoyment off the premises.
- (k) **Renewals.** The holder of an annual license granted under this Section shall submit an application for renewal at least 60 days before the expiration of the license. Such

license may be renewed pursuant to the provisions of subsections (b), (c) and (d) with respect to notice, publication requirements and action by the Public Safety Committee and Village Board.

(l) *Transfer of license.*

- (1) A license is personal to the licensee designated in the application and may be transferred only pursuant to this subsection. A transfer application must be filed no less than 30 days before any change of the owner or operators designated on the application. In the event that a transfer application is not filed in a timely manner, then the license shall be invalid for any purpose relating to the operation of the adult business, and the conduct of any adult business activities shall require the filing of an original application and be subject to the regulations applicable thereto.
- (2) The Village Clerk-Treasurer shall prescribe a form on which license transfer applications shall be made. The form shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by the transfer application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein and that the information is true and correct and shall not be complete unless accompanied by a nonrefundable transfer fee of \$500.00. Transfer applications shall be filed in the same place and at the same time as original applications, and the fee shall be payable in the same manner as for original applications.
- (3) Transfer applications shall be reviewed, issued and subject to appeal in the same manner as original applications, and they shall be issued for the remaining term of the license to be transferred.

(Ord. No. 2011-04, § 1, 1-10-2011; Ord. No. 2013-14, §§ 13, 14, 11-11-2013)

**SECTION 98:**        **AMENDMENT** “11-264 Regulations” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

11-264 Regulations

All license holders shall comply with the following regulations as each apply to the activities permitted under the license issued:

(a) *Live adult entertainment.*

- (1) No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six feet from any location from which patrons are directly served, while so entertaining the patrons.

- (2) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect physical contact with any patron.
  - (3) While dancing is in progress, the establishment shall be adequately illuminated as determined by the fire and/or building inspector so as to permit safe entry and exit from the premises.
  - (4) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this Section shall be deemed to include loud noises in violation of Chapter 20, Article III of this Code, patrons urinating in public, profane language and/or fighting.
  - (5) The premises shall close and all customers shall vacate the premises between 2:00 a.m. and 9:00 a.m. Sunday through Thursday and 2:30 a.m. and 9:00 a.m. Friday and Saturday.
  - (6) The license holder shall comply at all times with building capacity limits as set by the Fire and Emergency Medical Services Department or Building Code.
  - (7) The license holder shall comply with all applicable state statutes and regulations and all Village Ordinances.
  - (8) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.
  - (9) The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance. No performances may be given in any separate room, cubicle or booth not immediately accessible and generally in full view of other areas of the business open to all other patrons.
  - (10) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.
  - (11) The license holder shall not permit any person to touch any performer's specified anatomical areas during a public performance.
  - (12) Engaging in intercourse with simulated sexual organs during dances or performances is prohibited.
  - (13) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises.
- (b) *Physical layouts of adult oriented establishments.* Any adult oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape, DVD, digital video image, compact disc or any other video technology in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas must comply with the following requirements:
- (1) *Access.* Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
  - (2) *Construction.* Every booth, room or cubicle shall meet the following construction requirements:
    - a. Each booth, room or cubicle shall be separated from adjacent booths,

- rooms, cubicles and any nonpublic areas by a wall.
  - b. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
  - c. All walls shall be solid and without any openings, extended from the floor to a height of not less than eight feet, and be light colored, nonabsorbent, smooth textured and easily cleanable.
  - d. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
  - e. The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten footcandles at all times, as measured from the floor.
- (3) *Occupants.* Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.
- (c) *Responsibilities of operators.*
- (1) An operator, licensed under this Article, shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises of a period of three years following termination.
  - (2) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all reasonable times.
  - (3) Every act or omission by an employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
  - (4) Any act or omission of any employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.
  - (5) No employee of an adult business shall allow any minor to loiter around or to frequent the adult business or to allow any minor to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas.
  - (6) The operator shall maintain the premises in a clean and sanitary manner at all times.
  - (7) The operator shall ensure compliance of the establishment and its patrons with the provisions of this Section.

- (8) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an unmutated and undefaced sign or poster supplied by the Village which contains information regarding sexually transmitted diseases and the telephone numbers to call to obtain additional information.
  - (9) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures, or pamphlets supplied by the Village pertaining to sexually transmitted diseases.
  - (10) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one inch high, placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.
- (d) *Registration of employees.*
- (1) All operators and employees working in any adult business hereunder shall, prior to beginning employment or contracted duties, register with the Village Clerk-Treasurer. Such registration shall include the following:
    - a. Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and
    - b. Fingerprints and two portrait photographs of the applicant of at least two by two inches.
  - (2) Upon registration, the Village will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such adult oriented establishment.
  - (3) All registrations hereunder are valid for a period of one year.
  - (4) The registration fee of \$10.00 shall be paid per registration, which shall be paid to the Village to cover costs of the identification card.
- (e) *Location.*
- (1) No adult business may be conducted within 500 feet of any area zoned for residential, church, school, nursing home, public park, or day care center uses or within 500 feet of any public library, or non-profit or government operated youth center, senior center or community center.
  - (2) No adult business shall be located within 1,000 feet of any other adult business, or within 1,000 feet of any business holding an alcohol beverage license.
  - (3) For purposes of this subsection, distances are to be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the adult business to the nearest property line of another adult business, area zoned for residential, church, school, nursing home, public park, or day care center uses, business holding an alcohol beverage license or nonprofit or government operated youth center, senior center or community center.

(Ord. No. 2011-04, § 1, 1-10-2011; Ord. No. 2013-14, § 15, 11-11-2013)

**SECTION 99:            AMENDMENT “11-302 Licensing And Inspection”** of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-302 Licensing And Inspection**

- (a) All businesses engaged in the sale of any commodities, the use of weights and measures, liquid measuring devices, scales, weighing, measuring or price verification systems, timing devices, or linear measuring devices, shall obtain a license under this section and submit to inspection by the Department in accordance with Wis. Stats. Ch. 98 and Wis. Admin. Code Ch. ATCP 92. It shall be a violation of this section to fail to obtain a license, submit to inspection, to fail to comply with any lawful order of the Department, or to continue any business activity governed by this section without timely payment of the required fee.
- (b) A license shall be valid for one year and shall expire on December 31. New licenses shall be issued annually by the Village Clerk-Treasurer unless it is determined that testing service fees under Section 11-304 have not been paid.

(Ord. No. 2013-06, § 1, 9-23-2013)

**SECTION 100:            AMENDMENT “11-303 Application”** of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-303 Application**

The application for a license under this section shall be made in writing on a form provided by the Village Clerk-Treasurer and signed by an authorized representative for the applicant. Such application shall state the type and number of weighing and measuring devices to be licensed, the location of the devices, the applicant's full name and post office address and whether such person is an individual, partnership, limited liability company or corporation. If a partnership, the application shall state the names of partners, together with their addresses. If a corporation or limited liability company, the application shall state the names and addresses of all officers and agents of the applicant.

(Ord. No. 2013-06, § 1, 9-23-2013)

**SECTION 101:**        **AMENDMENT** “11-304 Application And Testing Service Fees” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-304 Application And Testing Service Fees**

- (a) An application fee at the time of initial application shall be charged in the amount of \$10.00. Thereafter, licensees shall pay only the testing service fee.
- (b) A testing service fee is hereby established to recover the Village's costs associated with any contract entered into with the Department under Wis. Stats. § 98.04. The testing service fee shall be charged to each business receiving testing services as reflected in the Department's invoice and contract work report in an amount equal to the proportionate share of time spent testing devices for the subject business.
- (c) The Village ~~Clerk~~-Treasurer, upon receipt of the invoice and contract work report from the Department, shall determine the base service fee by dividing the number of hours spent at each business by the total number of hours in Department report multiplied by the invoice amount from the Department.

(Ord. No. 2013-06, § 1, 9-23-2013)

**SECTION 102:**        **AMENDMENT** “11-305 Procedure” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-305 Procedure**

- (a) Upon determination of the appropriate testing service fees to be charged, the Village ~~Clerk~~-Treasurer shall prepare an invoice for each business reflecting the tests or measurements performed and the total fee to be charged to the business.
- (b) The invoice shall be sent by regular mail to the address reflected in the Department's report.
- (c) The invoice shall state that payment is due within 30 days. If the payment is not timely received in the office of the Village ~~Clerk~~-Treasurer, the Village ~~Clerk~~-Treasurer shall cause notice of violation to be served personally upon the person appearing to be in charge of the business premises at the time of service. Such notice shall inform the business that the required fee payment was not timely received and that if payment is not received within five business days of service of the notice of violation, the business shall discontinue all operations requiring the use of inspected devices or the sale of any commodities or be found in violation of this section.
- (d) The Village's failure to follow any procedure hereunder shall stay any enforcement

action until such procedures are satisfied, but shall not affect the validity of any fee.

(Ord. No. 2013-06, § 1, 9-23-2013)

**SECTION 103:**        **AMENDMENT** “11-306 Appeal” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-306 Appeal**

Any person who is charged a fee under this Article and is not liable for the fee under the terms of this Article or can demonstrate the charged fee has been miscalculated, may appeal the charge in writing to the Village ~~Clerk~~-Treasurer. No appeal may be considered if it is not actually received by the Village ~~Clerk~~-Treasurer prior to the expiration of the five days set forth in the notice of violation under Section 11-304 above. The Village ~~Clerk~~-Treasurer is hereby authorized to correct any manifest clerical or mathematical error. Fees properly charged under this section may not be waived or refunded. Receipt of a notice of appeal shall toll the time periods set forth in Section 11-304 above. Fees paid under protest and later found to be charged in error pursuant to a timely appeal may be refunded.

(Ord. No. 2013-06, § 1, 9-23-2013)

**SECTION 104:**        **AMENDMENT** “17-26 Fee For Answering Alarms” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**17-26 Fee For Answering Alarms**

- (a) *Generally.* Each false alarm requires response of public safety personnel, involves unnecessary expense to the Village, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the Village. Such false alarms constitute a public nuisance and must be abated.
- (b) *Intentional.* No person shall intentionally cause the activation of a burglar/fire alarm device knowing that no criminal activity, fire or other emergency exists.
- (c) *False alarms; administrative charges.*
  - (1) Any person, business, corporation or other entity having permissible alarm system with alarm devices at one or more locations in accordance with this Article shall pay to the Village a charge for false alarms responded to by the Police or Fire and Emergency Medical Services Department according to the number of false alarms within any continuous 12-month period. Separate

accounts shall be kept for false alarms as to criminal activity and false alarms for fire or other emergencies. These charges are as established by the Village Board from time to time and provided in Appendix A to this Code.

- (2) This Subsection is intended to impose a strict liability on the person, business, corporation or other entity responsible for alarm connection to either the police alarm panel or to alarm receiving firm to which the Police or Fire and Emergency Medical Services Department have responded and shall be applied regardless of the cause of the false alarm excepting those alarms excluded from the definition of "false alarm." The Chief of Police or his or her designee shall be responsible for determining whether a fee shall be charged under this Section and shall notify the Village Clerk-Treasurer of all fees to be charged.
- (d) *Other violations.* Any person, corporation or other entity violating this Article in any manner, other than for collection of unpaid administrative charges treated in the preceding Subsection (c) of this Section, shall be subject to forfeiture as provided in Section 1-16. When any premises located in the Village is owned, leased or occupied by two or more persons as joint tenants, tenants in common, joint lessees, or in any other manner, each person shall see that the provisions of this Article are complied with, and each person may be subjected to a penalty on violation of this Section.
- (e) *Payment of fees.* The Village Clerk-Treasurer shall promptly send an invoice by regular mail to the subject person, corporation or other entity for all false alarm charges reported by the Police Department. Payment of all false alarm charges shall be due 30 days from the date of the invoice. Upon nonpayment of the fee, the amount due plus an additional ten percent administrative fee, may be placed on the tax roll as a special charge pursuant to Wis. Stats. § 66.0627.

(Code 1998, § 5-4-9; Ord. No. 2010-06, 6-14-2010; Ord. No. 2013-14, § 23, 11-11-2013)

**SECTION 105:**        **AMENDMENT** "23-19 Preparation Of Tax Roll And Tax Receipts" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 23-19 Preparation Of Tax Roll And Tax Receipts

Pursuant to Wis. Stats. § 70.65(1), the Village Clerk-Treasurer shall annually prepare the tax roll. The contents of the tax roll shall be as specified in Wis. Stats. § 70.65(2).

(Code 1998, § 3-1-1; Ord. No. 2003-02, § 30, 1-27-2002)

**State law reference(s)**—Tax rolls, Wis. Stats. §§ 70.65, 74.08.

**SECTION 106:            AMENDMENT “23-71 Payment Of Accounts And Claims Against Village” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**23-71 Payment Of Accounts And Claims Against Village**

- (a) *Accounts and claims to be certified.* Prior to submission of any account or claim to the Village Board for approval of payment, the Village ~~Clerk~~-Treasurer 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.
  - (3) That the item or service has been actually supplied or rendered in conformity with the authorization in Subsection (a)(2) of this Section.
  - (4) That the claim is just and valid pursuant to law.
- (b) *Payment of accounts and claims.*
- (1) No account or claim against the Village, except as provided in Subsection (c) of this Section, shall be paid until it has been passed upon by the Village Board.
  - (2) If the Village Board approves payment of the account or claim it shall direct the Village ~~Clerk~~-Treasurer to issue a Village order for the amount of the claim approved. All money paid out of the Village treasury shall be paid upon an order signed by the Village President and countersigned by the Village ~~Clerk~~-Treasurer and Village Clerk, except that payments of regular wages or salaries shall be as provided in Subsection (c) of this Section. The Minutes of the proceedings of the Village Board, or a statement attached thereto, shall show to whom, and for what purpose, every such account was allowed and the amount. Routine and time-dependent statements, such as utility bills, may be paid by the Village ~~Clerk~~-Treasurer without utilizing the procedures of this Section.
- (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 or department head and filed with the Village ~~Clerk~~-Treasurer in time for payment on the regular pay day.

(Code 1998, § 3-1-8; Ord. No. 2003-02, §§ 35—38, 1-27-2002)

**State law reference(s)**—Payment of claims, Wis. Stats. § 61.51.

**SECTION 107:**        **AMENDMENT** “23-72 Temporary Investment Of Funds Not Immediately Needed” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**23-72 Temporary Investment Of Funds Not Immediately Needed**

The Village ~~Clerk~~-Treasurer may invest any Village funds not immediately needed, pursuant to Wis. Stats. § 66.0603(lm) and Ch. 219, and Village Investment Policies adopted by resolution of the Village Board.

(Code 1998, § 3-1-9; Ord. No. 2003-02, § 39, 1-27-2002; Ord. No. 2003-05, § 12, 3-24-2003)

**State law reference(s)**—Investments, Wis. Stats. §§ 66.0603(1m), 219.001 et seq.

**SECTION 108:**        **AMENDMENT** “23-73 Receiving Money; Receipt” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**23-73 Receiving Money; Receipt**

- (a) The Village ~~Clerk~~-Treasurer and deputies shall not receive money into the treasury from any source except on account of taxes levied and collected during the fiscal year for which they may then be serving, without giving a receipt therefor in the manner specified by the Village Board.
- (b) Upon the payment of any money (except for taxes as herein provided), the Village ~~Clerk~~-Treasurer shall make out a receipt in duplicate for the money so received. The Village ~~Clerk~~-Treasurer shall charge the amount thereof to the treasury and credit the proper account. The payment of the money to any receiving agent of the Village or to the Village or to the Village ~~Clerk~~-Treasurer shall be safeguarded in such manner as the Village Board shall direct.

(Code 1998, § 3-1-10; Ord. No. 2003-02, §§ 40, 41, 1-27-2002; Ord. No. 2003-05, § 13, 3-24-2003)

**State law reference(s)**—Receipt for fees, Wis. Stats. § 66.0515.

**SECTION 109:            **AMENDMENT** “23-74 Statement Of Real Property Status”**  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**23-74 Statement Of Real Property Status**

The Village ~~Clerk~~-Treasurer and designees are authorized to prepare a statement of real property status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water and sewer bills, current water, sewer, and stormwater bills, contemplated improvements, outstanding citations on Building Code violations and similar information. Subject to any applicable legal restrictions prohibiting the release of any such information, the requested information shall be provided to the person requesting it on said form within five business days. The requesting party shall pay a fee as established by the Village Board from time to time and set forth in Appendix A to this Code. A request for expedited service shall be fulfilled by the end of the next business day following receipt of the request, and shall be subject to the expedited service fee provided in Appendix A.

(Code 1998, § 3-1-11; Ord. No. 2002-02, § 1, 1-14-2002; Ord. No. 2003-02, § 42, 1-27-2002)

**State law reference(s)**—Disclosure by owners of residential real estate, Wis. Stats. § 709.01 et seq.

**SECTION 110:            **AMENDMENT** “23-93 Bid Solicitation Procedures Generally”**  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**23-93 Bid Solicitation Procedures Generally**

(a) The Village Board has approved written purchasing policies and procedures to provide additional standards applicable to public purchasing policies. In the event of a conflict between Chapter 23, Division 4, of the Code and the purchasing policies and procedures, the Code shall control.

(1) *Informal written quotation.* An informal written quotation is a written request for quotation sent to vendors. The informal written quotation is used for the purchase of goods and services in an amount over \$5,000.00 but less than \$25,000.00. The Village shall give a class 1 legal public notice of the proposed construction before the contract for the construction may be executed.

- (2) *Formal bid.* The formal bid procedure is used for purchasing goods and services in an amount of \$25,000.00 and higher, and in some instances in amounts less than \$25,000.00. The formal bid procedure requires a class 1 legal public notice and contains detailed, written specifications regarding the goods and services to be purchased and a summary of specific conditions associated with the purchase.
- (3) *Quotation form.* The Village may solicit verbal or written quotations on items the Village purchases, which are less than \$5,000.00. The results of verbal quotations are recorded on a "Memorandum of Quotation" form.

(b) *Bid solicitation.*

- (1) Competitive bids or quotations shall be obtained before contracting to purchase articles, goods, wares, material services or merchandise, which amount in bulk to \$25,000.00 or higher. Purchases up to \$25,000.00 may be made by competitive quotation or by informal written quotation. Purchases of \$25,000.00 and over, pursuant to Subsection (b)(2) of this Section, shall be made by formal bid unless exempted from it by action of the Village Board or by a committee designated by the Village Board.
- (2) Verbal quotations for goods and services shall be secured from at least two qualified vendors and the results of the quotations shall be recorded on a "Memorandum of Quotation" form and signed by the person receiving the quotations.
- (3) Informal requests for written quotations shall be solicited from at least three qualified bidders on the request for quotation form. All written requests for quotations shall be issued by the applicable department heads and returned to and analyzed by the applicable department heads. Informal requests for written quotations may also be solicited by telephone. Vendors shall be given a reasonable time to respond to the request for an informal, written quotation and shall be given clear, concise specifications and informal bidding instructions to facilitate competitive bidding.
- (4) When a formal bid is required or deemed to be in the best interests of the Village, the bidding procedure shall follow the legal requirements associated with a class 1 notice under Wisconsin Statutes and the procedures normally associated with formal bid solicitations.
- (5) *Bidding procedures.* When a formal bid is required or deemed to be in the best interests of the Village, the bidding procedure shall comply with formal bid solicitation standards identified in the Village's Purchasing Policies and Procedures and the bid solicitation notice shall contain at least the following information:
  - a. A bid solicitation identifier.
  - b. A detailed description of the goods and services, including enough information about the items or services required so that, ordinarily, more than one vendor can meet the specifications.
  - c. The time, date and place the bids will be opened.
  - d. The address to which the bids shall be mailed or delivered.Instructions to bidders shall include such information as delivery

dates, transportation charges, proposal prices, conditions for guaranteeing the proposal, payment terms, right of rejection of proposals, right to reject merchandise, insurance requirements, alternative proposal consideration, tax information, and other appropriate information regarding the awarding and execution of the contract and contract considerations.

- e. A section on special provisions including guarantees and service considerations, trade-in considerations, and other information relating to special conditions.
  - f. A notice that bidders must supply the information required by Section 23-95, if applicable.
- (6) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the Village Clerk-Treasurer shall ensure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.

(Code 1998, § 3-1-13; Ord. No. 2003-02, § 43, 1-27-2002; Ord. No. 2013-04, §§ 2—9, 4-22-2013)

**State law reference(s)**—Advertisement, etc., for bid, Wis. Stats. § 62.15(3)—(8).

**SECTION 111:            **AMENDMENT**** “23-119 Needs Assessments; Revenues; Time Periods; Installment Payments; Appeals” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

23-119 Needs Assessments; Revenues; Time Periods; Installment Payments; Appeals

- (a) The following Village documents contain the needs assessments for the impact fees identified under Section 23-118, and demonstrate Village compliance with the requirements of Wis. Stats. § 66.0617(4):
  - (1) Public Facilities Needs Assessment for Public Water Impact Fees prepared by Town and Country Engineers dated December 9, 1997;
  - (2) Report on Impact Fees prepared by Virchow, Krause & Company dated December 9, 1997, as amended by Report dated February 21, 2002;
  - (3) Park Impact Fee, Fee in Lieu of Land Dedication and Public Facility Needs Assessment prepared by Baker Tilly Virchow Krause, LLP dated January 27, 2020;
  - (4) Public Facilities Needs Assessment for Public Library Impact Fees prepared by Virchow Krause & Company, LLP dated March 7, 2006;
  - (5) Public Safety Center Impact Fee Study prepared by Baker Tilly Virchow Krause, LLP dated July 5, 2023;

- (6) Public Facilities Needs Assessment for Municipal Water System prepared by Town & Country Engineers dated February, 2023.
- (b) Revenues collected by the Village as impact fees shall be placed by the Village Clerk-Treasurer in separate segregated interest-bearing accounts, and shall be accounted for separately from other funds of the Village. Impact fee revenues and interest earned on impact fee revenues may be expended by the Village only for the particular capital costs for which the impact fee was imposed, and shall be expended on a first-in first-out basis. Separate accounts shall be kept of fees collected from different impact fee zones, where the particular impact fee ordinance provides for differential fees according to zones, and revenues collected in particular zones shall be spent in those zones as appropriate.
- (c) All fees collected under this Section shall be used or refunded in a manner consistent with Wis. Stat. §66.0617.

Fees held by the Village and not used within the time period specified herein or pursuant to Wis. Stats. § 66.0617(9) shall be refunded to the current owner of record of the property at the time of the refund with respect to which the impact fees were imposed along with any interest that has accumulated.

- (d) The Village Board may authorize the payment of impact fees otherwise payable in full at the time of the issuance of a building permit in installment payments. If installment payments are authorized, interest shall be paid on the installment payments at the same rate charged by the Village on installments of special assessments.
- (e) A "developer," as defined in Wis. Stats. § 66.0617(1)(b), may appeal to contest the amount, collection or use of the impact fee in the manner provided herein:
- (1) It shall be a condition to the commencement of such an appeal that the impact fee from which the developer appeals shall be paid as and when the fee becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.
  - (2) The only questions appealable under this Section are the following, as authorized by Wis. Stats. § 66.0617(10):
    - a. The amount of fee charged and paid by the developer;
    - b. The method of collection of the impact fee;
    - c. The use to which the particular fee paid by the developer is made by the Village.
  - (3) Appeals must be brought within 30 days of the date of payment of the impact fee.
  - (4) The appellant shall pay the filing fee stated in the fee schedule established by the Village Board from time to time and provided in Appendix A to this Code at the time of filing of the appeal. The notice of appeal shall be filed with the Village Administrator.
  - (5) Following the filing of the notice of appeal, the Village Administrator shall compile a record of the ordinance imposing the impact fee that is the subject of the appeal, a record of the management and expenditure of the proceeds of the impact fee, and shall transmit these documents to the Village Board. In consultation with the Village departments, the Village Administrator shall also

compile a report on each appeal in which the appellant is seeking a reduction or total refund of the impact fee paid. This report shall specify the fiscal impact on the Village if the appeal overturns the impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by development on the appellant's property, the report shall estimate whether it will be necessary for the Village to adjust impact fees, or amend existing ordinances to recover the proposed revenue shortfall.

- (6) The Village Board shall hold a public hearing on the appeal, preceded by a class 1 notice, providing fair opportunity for the appellant to be heard. The burden shall be on the appellant to establish illegality or impropriety of the fee from which the appeal has been taken. Following the close of the public hearing, the Village Board shall deliberate upon the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal.
- (7) If the Village Board determines that the appeal has merit, it shall determine appropriate remedies. These may include reallocation of the proceeds of the challenged impact fee to accomplish the purposes for which the fee was collected, refunding the impact fee in full or in part, along with interest collected by the Village thereon, or granting the appellant the opportunity to make the impact fee payment installments, or such other remedies as it deems appropriate in a particular case.

**State law reference(s)**—Impact fees, Wis. Stats. § 66.0617.

**SECTION 112:**        **AMENDMENT** “35-309 Snowmobile Routes And Trails Designated” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 35-309 Snowmobile Routes And Trails Designated

- (a) *Routes generally designated.* Except as provided in Wis. Stats. §§ 350.02 and 350.045, or for snowmobile events authorized in accordance with Wis. Stats. § 350.04, no person shall operate a snowmobile upon any public right-of-way, in any public park or on any other public or private property in the Village except upon snowmobile routes and trails designated by the Village Board. The designated routes to be used within the Village limits shall be adopted by resolution by the Village Board, a copy of which shall be on file with the Village Clerk-Treasurer.
- (b) *Trail markers.* The Director of Public Works and Chief of Police shall approve the placement of appropriate snowmobile route, trail and limit signs and markers as

approved by the Wisconsin Department of Natural Resources under Wis. Stats. § 350.13. The Chief of Police shall have the power to declare the stated snowmobile routes and trails either open or closed.

- (c) *Markers to be obeyed.* No person shall fail to obey any route or trail sign, marker or limit erected in accordance with this Section.

(Code 1998, § 10-3-9)

**SECTION 113:**        **AMENDMENT** “38-66 Graffiti” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**38-66 Graffiti**

Graffiti shall be removed by the property owner or by the Village at the property owner's expense. The Director of Public Works may order graffiti removed within a time certain as specified in the order, which shall advise the property owner that if the graffiti is not removed within the specified time period, it will be removed at the property owner's expense. If a property owner fails to remove graffiti within the time specified in the order, the Director of Public Works may cause the graffiti to be removed. The Director of Public Works shall keep an accurate account of the expenses thereof and report the expenses to the property owner and to the Village Clerk-Treasurer who shall annually prepare a statement of the expenses so incurred on each lot or parcel of land and report the expenses to the Village Clerk-Treasurer and the amount therein charged to each lot or parcel of land shall be entered by the Village Clerk-Treasurer in the tax roll as a special charge against said lot or parcel of land. Such expenses shall be collected in all respects like other special charges upon real estate under Wis. Stats. § 66.0627. Prosecution for failure to remove graffiti under this Section shall not bar the Village from charging property owners for graffiti removal, nor shall charging the property owners for graffiti removal bar prosecution for graffiti violation.

**State law reference(s)**—Graffiti, Wis. Stats. § 943.017.

**SECTION 114:**        **AMENDMENT** “44-24 Reservation Of Park Space” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**44-24 Reservation Of Park Space**

- (a) *Policy on reservation.* The Village-owned park and park facilities and shelter areas are primarily for the nonexclusive use of the residents and visitors of the Village.

However, under proper circumstances, exclusive use of the same or parts thereof may be permitted. This Section is intended to regulate exclusive use of municipally-owned parks, park facilities, park shelters or parts thereof in the Village to the end that the general welfare of the Village is protected.

- (b) *Reservation of park space.* A permit is required for any special usage of any park within the Village. An organized gathering desiring to reserve a specific portion of any park in the Village shall constitute a special usage. A person or group, firm, organization, partnership or corporation may reserve the use of a park facility or a park shelter by written application filed with the Village Clerk-Treasurer for a permit for exclusive use of the same. The Village Clerk-Treasurer shall issue permits for the exclusive use of a portion of a park or park shelter, while the Village Board shall issue permits for the exclusive use of the Village parks. Park facilities are reserved on a first-requested, first-reserved basis. Certain proposed uses and gatherings may require the issuance of an event permit, subject to the requirements of Chapter 36, instead of a permit issued under this Section.
- (c) *Application.* Reservation or special use permit applications shall be filed with the Public Works Department at least seven days prior to the date on which the exclusive use of the entire park is requested, or at least three days prior to the date on which a park shelter or a portion of a park is to be reserved, and shall set forth the following information regarding the proposed exclusive use:
  - (1) The name, address and telephone number of the applicant.
  - (2) If the exclusive use is proposed for a group, firm, organization, partnership or corporation, the name, address and telephone number of the headquarters of the same and the responsible and authorized heads or partners of the same.
  - (3) The name, address and telephone number of the person who will be responsible for the use of the said park, area or facility.
  - (4) The date when the exclusive use is requested and the hours of the proposed exclusive date.
  - (5) The anticipated number of persons to use the said park, area or facility.
  - (6) Any additional information which the Village Board or Village Clerk-Treasurer finds reasonably necessary to a fair determination as to whether a permit should be issued.
  - (7) Whether applicant contemplates consumption of alcohol beverages and, if so, copies of permits issued pursuant to Sections 11-61, 11-66 and 38-127.
- (d) *Fee.* All applications for reservation of park facilities, including but not limited to shelters, storage or access areas, or spaces designated for a specific sport or recreation activity for which a permit is required shall pay the application fees established by the Village Board from time to time and provided in Appendix A to this Code.
- (e) *Deposit.* At the time of application, all applicants shall also provide a deposit as established by the Village Board from time to time and provided in Appendix A to this Code, which is refundable in full or in part after completion of the event if the Village incurs expenses of less than the amount of the deposit established by the Village Board from time to time and provided in Appendix A in clean up or repair of the Village facility rented.
- (f) *Reasons for denial.* Applicants may be denied for any of the following reasons:

- (1) If it is for a use that would involve a violation of federal or state law or any provision of this Code.
  - (2) If the granting of the permit would conflict with another permit already granted or for which application is already pending.
  - (3) If the application does not contain the information required by Subsection (c) of this Section.
  - (4) The application is made less than the required days in advance of the scheduled exclusive use.
  - (5) If it is for a use of the park or park facility at a date and time when, in addition to the proposed use, anticipated nonexclusive use by others of the park or park facility is expected and would be seriously adversely affected.
  - (6) If the law enforcement requirements of the exclusive use will require so large a number of persons as to prevent adequate law enforcement to the park, park facility or shelter area involved or of the rest of the Village.
  - (7) The exclusive use will reasonably create a substantial risk of injury to persons or damage to property.
  - (8) The exclusive use is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (g) *Indemnification.* A permit shall be issued only upon condition that the applicant submit to the Village Clerk-Treasurer satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000.00 per one person, \$500,000.00 for one accident and property damage coverage of not less than \$500,000.00. The policy shall name the Village as the third party insured.
- (h) *Permit not required for Village activity.* A permit is not required for exclusive use of the park or a park facility sponsored by the Village.
- (i) *Permit revocation.* The Village Board and/or Chief of Police after granting a permit may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a major change in the conditions forming the basis of the issuance of the permit.
- (j) *Form of permit.* Each permit shall be in a form prescribed by the Village Board and shall designate the park, park facility or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use and the name of the person, group, firm, organization, partnership or corporation to which the permit is issued.
- (k) *Class B fermented malt beverage licenses.* When fermented malt beverages are sold at any event authorized by this Section, a valid fermented malt beverage license shall be obtained and the provisions of Sections 11-44, 11-66 and 38-127 shall be fully complied with. Said license must be held by the person who filed the original license and shall be presented to any law enforcement officer upon request.

(Code 1998, § 12-1-6; Ord. No. 98-20, § 4, 12-14-1998; Ord. No. 99-24, § 1, 12-13-1999; Ord. No. 2002-02, §§ 7, 8, 1-14-2002; Ord. No. 2003-02, §§ 138—141, 1-27-2002; Ord. No. 2006-01, § 5, 2-23-2006)

**SECTION 115:            AMENDMENT “44-26 Dog Exercise Areas” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**44-26 Dog Exercise Areas**

- (a) *Establishment of dog exercise areas.* The Village Board may establish one or more dog exercise areas. All dog exercise areas shall be designated by erecting adequate fencing to fully enclose such area and by erecting conspicuous signage at the entrance of such area indicating it has been designated as a dog exercise area.
- (b) *Permit.* No person may allow any dog they own or that is within their custody or control to be present in a dog exercise area without having obtained a dog exercise area permit for the dog in accordance with this Subsection. Permits from other jurisdictions shall not be a substitute for a permit from the Village.
  - (1) Permits shall be obtained from the Village Clerk-Treasurer. The Village Clerk-Treasurer shall establish an application form, which shall request all information necessary to determine whether the dog is eligible for a permit. The Village Clerk-Treasurer may, in cooperation with other Village departments, establish self-service application and payment facilities located at any dog exercise area.
  - (2) Permits may be issued on an annual or daily basis. The annual permit shall be issued in the form of a tag made of any durable material that may be worn on a dog's collar. Upon application and payment of the prescribed fee, a copy of the application shall be given to the applicant, which shall serve as a temporary permit until a tag can be issued. For a daily permit, the copy of the application shall constitute the permit.
  - (3) If, upon review of any application, it is determined that any of the information provided is false or if it is determined the dog is not eligible for a permit, the permit shall be considered void and notice thereof shall be sent by regular mail to the applicant. The fee for the permit shall not be refunded.
  - (4) To be eligible for a permit:
    - a. The dog must display a valid dog license tag issued by the Village or other local government where the dog resides. This requirement shall not apply if the jurisdiction where the dog resides does not require the dog to be licensed or if the dog is less than five months of age.
    - b. The dog must be current on rabies vaccinations.
    - c. The dog may not be considered a dangerous dog pursuant to Chapter 5, Article IV, of the McFarland Municipal Code or pursuant to Wis. Stats. §§ 173.21(1)(b) and 173.23(4)(b) or (c) and 174.02(3a).
    - d. The appropriate fee established by the Village Board from time to time and provided in Appendix A to this Code shall be paid.
    - e. Annual permits shall be renewed each year as of January 1. Fees shall not be prorated; however, permits issued 15 days prior to January 1

shall be valid through the following year.

- (c) *Rules.* The following rules shall be observed at all times. Failure to observe the rules established herein shall be grounds for suspension, revocation, or refusal to issue any dog exercise permit for the individual dog or any dog owned by the person found to be in violation.
- (1) Dogs shall be under the control of the owner or other person in lawful custody at all times.
  - (2) Dogs shall not intimidate, attack or threaten any person or another pet.
  - (3) All feces shall be picked up and placed in designated receptacles.
  - (4) Female dogs in heat are prohibited.
  - (5) At all times while present in the dog exercise area, each dog shall wear the permit tag issued for it or, where no tag has been issued, the owner or person in custody and control shall carry a copy of the permit.
  - (6) Unless expressly provided in this Section, all other Village ordinances applicable to Village parks shall apply to dog exercise areas.

(Ord. No. 2009-14, § 3, 7-13-2009)

**SECTION 116:**        **AMENDMENT** “44-54 Ultralight Aircraft Regulated” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 44-54 Ultralight Aircraft Regulated

- (a) *Definition.* For the purposes of this Section, the term "ultralight aircraft, vehicle or hang glider" means an unpowered or powered aircraft, which is not subject to extensive regulation by the Federal Aviation Administration by virtue of its characteristics and which is defined as an ultralight vehicle by 14 CFR 103.1 and which is defined as an ultralight aircraft by Wis. Stats. § 114.195.
- (b) *Regulations regarding use.*
- (1) No person shall operate any ultralight aircraft within the Village in such a manner or in such a location as to endanger or injure any person or property. No person shall operate an ultralight aircraft in the Village in violation of any applicable state and federal regulations and standards. No person shall cause an ultralight aircraft to land or to take off from any property without permission of the owner or occupant of said property, provided that an emergency landing may be made to prevent a catastrophe. In the case of landing or taking off from a Village public park or other Village property, the operator of such ultralight aircraft shall first obtain a permit from the Village Board. No fee shall be charged by the Village Board for such permit, which may be issued for a period up to 30 days nor shall the Village Board sponsor such activity.

- (2) Any person desiring to land or to take off from any property owned by the Village, shall, prior to receiving a permit, procure evidence of insurance providing for not less than \$1,000,000.00 of coverage for personal injury for one person, \$2,000,000.00 of coverage for personal injury for each occurrence and \$1,000,000.00 of coverage for each occurrence for damage to property. Evidence of such insurance shall include a certificate of insurance naming the Village as an additional insured and said certificate shall be filed with the Village Clerk-Treasurer at the time the applicant seeks a permit.

(Code 1998, § 12-1-5; Ord. No. 2003-02, § 137, 1-27-2002)

State law reference(s)—Ultralight aircraft, Wis. Stats. § 114.195.

**SECTION 117: AMENDMENT** “47-271 Calculation Of Stormwater Utility Charges” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 47-271 Calculation Of Stormwater Utility Charges

- (a) *Customer classification.* All property subject to stormwater utility charges shall be classified into one of the following customer classes:
- (1) Single-family or duplex unit.
  - (2) Non-single-family or duplex unit.
- (b) *Stormwater fee.* Each customer shall be charged a stormwater fee based upon a charge as established by the Village Board from time to time and provided in Appendix A to this Code unless a different charge is recommended by the Public Works & Utilities Committee and adopted by the Village Board by resolution. The stormwater fee shall include amounts for the fixed costs of the Stormwater Utility, as well as the Variable Costs of the Stormwater Utility based on its actual experience in the administration of the Stormwater Utility. The Committee shall assure that the fixed cost component and the Variable Cost component of the stormwater fee are accounted for separately on an ongoing basis. A copy of any such resolution shall be filed with the Village Clerk-Treasurer and Village Engineer upon adoption.
- (c) *Single-family and duplex units.* Each single-family and duplex unit shall equal one ERU.
- (d) *Non-single-family or duplex units.* Each other parcel, whether multifamily residential, commercial, industrial or institutional, shall be charged for one ERU or a number of ERUs equal to the ratio of the total impervious area of the parcel to the square footage of one ERU whichever is greater. (For example, a parcel with 5,200 square feet of impervious area shall be charged for 1.5 ERUs.) The number of ERUs shall be rounded to the nearest tenth.

(Ord. No. 2007-10, § 1(9-6-5), 11-12-2007; Ord. No. 2010-02, § 4, 1-11-2010)

**SECTION 118:            **AMENDMENT** “47-272 Credits” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**A M E N D M E N T**

**47-272 Credits**

Credits may be obtained toward a reduction of the stormwater fee chargeable to a given parcel which is attributable to operation and maintenance expenses of the Utility. Such credits may be obtained as follows:

- (a) *Discharge rate reduction.* Owners of developed parcels having impervious area with greater than one ERU assigned to such parcels and not containing single-family or duplex units may receive a credit calculated against the stormwater fee in accordance with Subsection (i) of this Section, arising from the portion of the stormwater fee related to impervious areas that are in excess of one ERU if new on-site stormwater facilities not specifically required by ordinance, permit, statute or regulation are installed which reduce stormwater discharge rates below levels specified in the Stormwater Credit Manual. In all cases, reduction shall be calculated in accordance with the then-current calculation methodologies by the Wisconsin Department of Resources and by Dane County as set forth in the Stormwater Credit Manual.
- (b) *Runoff volume reduction.* Owners of developed parcels having impervious area with greater than one ERU assigned to such parcels and not containing single-family or duplex units may receive a credit against the stormwater fee calculated in accordance with Subsection (i) of this Section, arising from the portion of the stormwater fee related to impervious areas that are in excess of one ERU if new on-site stormwater facilities not specifically required by ordinance, permit, statute or regulation are installed which reduce the total volume of runoff to levels specified in the Stormwater Credit Manual. In all cases, reduction shall be calculated in accordance with the then-current calculation methodologies approved by the Wisconsin Department of Natural Resources and by Dane County as set forth in the Stormwater Credit Manual.
- (c) *Quality improvement.* Owners of developed parcels having impervious area with greater than one ERU assigned to such parcels not containing single family or duplex units may receive a credit against the stormwater fee calculated in accordance with Subsection (i) of this Section, arising from the portion of the stormwater fee related to impervious areas that are in excess of one ERU if new on-site stormwater facilities not specifically required by ordinance, permit, statute or regulation are installed which reduce suspended solids discharges below levels specified in the Stormwater Credit Manual. In all cases, reduction shall be calculated in accordance with the then-current calculation methodology approved by the Wisconsin Department of Natural Resources and by Dane County as set forth in the Stormwater Credit Manual.
- (d) *Education.* A credit not to exceed 20 percent of the total stormwater fee due against the stormwater fee related to impervious areas for that property that is in excess of one

ERU for any elementary, middle or high school, property may be granted where an established stormwater education curriculum is taught. Such credit shall apply only to the property of the school where the stormwater education curriculum is taught. The method of calculation of the credit shall be established by the Village Board upon review of a proposed curriculum. A qualified stormwater education curriculum shall present stormwater and water resources management education to every student at least one time during each student's time at the particular school and shall be reasonably calculated to encourage appreciation and stewardship of water resources and thereby reduce negative impacts on local streams and lakes. Subsections (h) through (l) of this Section shall not apply to obtain this credit. Application for this credit shall be made by submitting a proposed curriculum to the Village Administrator with a written request for consideration of a credit. The Village Administrator shall review the proposed curriculum and shall submit a recommendation to the Village Board within 45 days of receipt of the request unless an extension of time is agreed to, in writing, by the school or district. The Village Administrator may negotiate with the school or district during the 45 days regarding the specifications of the curriculum and the amount of credit to be recommended, however, the Village Board shall have final approval authority.

- (e) *Direct discharge.* Owners of developed parcels having impervious area with greater than one ERU assigned to such parcels and not containing single-family or duplex units may receive a credit against the stormwater fee calculated in accordance with Subsection (i) of this Section, arising from the portion of the stormwater fee related to impervious areas that are in excess of one ERU if the owner demonstrates as set forth in the Stormwater Credit Manual that more than 50 percent of the parcel area drains directly to Lake Waubesa Upper Mud Lake, Lower Mud Lake, Yahara River, or Door Creek without passing through any portion of the stormwater collection and conveyance system operated or maintained by the Village or without crossing any Village-owned public rights-of-way.
- (f) *Combined.* Where a stormwater fee credit is sought by an owner for multiple reductions or improvements, the maximum credit allowed shall not exceed that portion of the total stormwater fee calculated in accordance with Subsection (i) of this Section, that exceeds one ERU.
- (g) *Effect of credits.* In the event the Village grants any stormwater fee credits, the cost of any credits may be reallocated across other Village properties by increasing the amount of a single ERU so that the total revenue available to the Stormwater Utility shall not be reduced by the amount of the credits allowed.
- (h) *Application.* To obtain a stormwater fee credit, the owner must submit an application on a form prescribed by the Village Clerk-Treasurer including design calculations as specified in the Stormwater Credit Manual. The Village Engineer shall review the application and supporting materials to determine eligibility and amount of the credit. No property shall receive a credit unless the calculation methodology conforms to the calculation methodologies specified in the Stormwater Credit Manual. If the information submitted is complete, the Village Engineer shall make a determination within 30 days of submittal.
- (i) *Calculation of credit.* If any property qualifies for a stormwater fee credit under

Subsections (a) through (e), the maximum available credit shall be applied only against the Variable Cost component of the stormwater fee. No credit is available against the Fixed Cost component of the stormwater fee. In no event may a credit reduce the stormwater fee below the charge for one ERU per year.

- (j) *Appeal.* Appeal of the determination of the Village Engineer shall be heard by the Public Works & Utilities Committee. Written notice of appeal shall be filed with the Village Clerk-Treasurer within 15 days of receipt of the Village Engineer's determination. The notice of appeal shall describe the basis of the appeal.
- (k) *Fees.* The credit application shall be accompanied by a fee as established by the Village Board from time to time and provided in Appendix A to this Code. Any notice of appeal under Subsection (j) of this Section shall be accompanied by a fee as established by the Village Board from time to time and provided in Appendix A to this Code.
- (l) *Effective date.* No credit shall take effect unless the stormwater management facilities for which the application was filed are installed and approved by the Village Engineer. Any stormwater facility approved by the Village Engineer shall receive a credit as of July 1 in the year of completion if completed prior to April 1 of such year. Any stormwater facility approved by the Village Engineer after April 1 of any year shall receive a credit on January 1 of the next succeeding year.
- (m) *Maintenance.* Once installed, the owner of developed parcels shall maintain the practices for which credit was granted. In order to qualify for a credit in each succeeding year, owners shall certify in writing to the Village no later than November 1 of each succeeding year of their continued maintenance of the practice for which credit was granted. Failure to maintain the practice shall result in cancellation of the credit.

(Ord. No. 2007-10, § 1(9-6-6), 11-12-2007; Ord. No. 2010-02, §§ 5—19, 1-11-2010)

**SECTION 119:**        **AMENDMENT** “47-273 Billing” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 47-273 Billing

- (a) The Public Utilities Committee shall establish billing procedures and may bill charges on the same invoice as water and sewer charges.
- (b) Interest on late payments may be charged not to exceed 1.5 percent per month.
- (c) On October 15 of each year, the Village Clerk-Treasurer shall cause a notice to be mailed or delivered to the owner or occupant of any parcel to which stormwater utility charges, plus any interest are in arrears. All balances in arrears on November 1 of each year shall become a lien on the parcel and shall be inserted on the tax rolls for collection in accordance with Wis. Stats. § 66.0809(3) as amended.

- (d) Stormwater utility charges shall not be paid in installments.
- (e) Billing methods and charge calculations may be modified for governmental customers by intergovernmental agreement pursuant to Wis. Stats. § 66.0301.

(Ord. No. 2007-10, § 1(9-6-7), 11-12-2007)

**SECTION 120:**            **AMENDMENT** “50-88 Major Appliance Pickup” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

50-88 Major Appliance Pickup

- (a) No major appliance shall be placed on any terrace, curbside or on any roadway adjoining any premises for collection unless the owner of the major appliance has contacted the Village's recycling contractor to make arrangements for pick up of the major appliance. Every property owner shall be responsible for maintaining such owner's property in accordance with this Section.
- (b) The Director of Public Works shall cause all appliances which have been placed on any roadway adjoining a premises, at a curbside or on a terrace and have not been collected in a reasonable time period to be removed and disposed of properly. The Director of Public Works shall keep an accurate account of the expenses thereof and report the same to the Village ~~Clerk~~-Treasurer, who shall annually prepare a statement of the expenses incurred in front of each lot or parcel of land. The amount therein charged to each lot or parcel shall be entered by the Village ~~Clerk~~-Treasurer as a special charge against said lot or parcel of land, and the same shall be collected in all respects pursuant to Wis. Stats. § 66.0627.

(Code 1998, § 8-3-11(e)(2); Ord. No. 2003-02, § 136, 1-27-2002; Ord. No. 2003-05, § 29, 3-24-2003)

**SECTION 121:**            **AMENDMENT** “53-68 Removal Of Rubbish And Dirt From Sidewalks” of the Village of McFarland Municipal Code is hereby *amended* as follows:

A M E N D M E N T

53-68 Removal Of Rubbish And Dirt From Sidewalks

No owner or occupant shall allow the sidewalk abutting on the owner or occupant's premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Director of Public Works, the Director of Public Works may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer who shall spread the cost on the tax roll as a special charge against the premises, pursuant to Wis. Stats. § 66.0627, or such cost may be recovered in an action against the owner or occupant.

(Code 1998, § 6-2-1; Ord. No. 2003-02, § 53, 1-27-2002)

**State law reference(s)**—Special charges for services, Wis. Stats. § 66.0627.

**SECTION 122:**            **AMENDMENT** “53-72 Repair Or Replacement Of Defective Sidewalks” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 53-72 Repair Or Replacement Of Defective Sidewalks

- (a) Pursuant to Wis. Stats. § 66.0907, the Village Board may order at any time property owners to repair or remove and replace any sidewalk that is unsafe, defective, or insufficient at the property owner's expense, except as herein provided. If the property owner shall fail to repair or remove and replace such sidewalk to meet Village standards and specifications within 20 days after service of the notice provided in Wis. Stats. § 66.0907(3)(c), the Village Board shall repair or construct such sidewalk and the Village Clerk-Treasurer shall enter the property owner's share of the total cost thereof upon the tax roll as a special assessment against said lot or parcel of land. If an emergency situation exists that is caused by a sidewalk in need of repair, the Director of Public Works shall direct the property owner to make repairs within seven days. If the property owner shall fail to repair such sidewalk within the required period, the Village Board shall make the necessary repairs and the Village Clerk-Treasurer shall enter the property owner's share of the total cost thereof on the tax roll as a special tax against said parcel.
- (b) (1) Before a special charge for the repair of sidewalks, curbs or gutters may be imposed, a public hearing shall be held by the Village Board on whether the service in question will be funded in whole or in part by a special charge. Any interested person may testify at the hearing. Notice of the hearing shall be by class 1 notice under Wis. Stats. Ch. 985, published at least 20 days before the hearing. A copy of the notice shall be mailed at least ten days before the hearing to each interested person whose address is known or can be ascertained with reasonable diligence. The notice under this Subsection shall state the date, time and location of the hearing, the subject matter of the

hearing and that any interested person may testify.

- (2) A special charge is not payable in installments. If a special charge is not paid within the time determined by the Village Board, the special charge is delinquent. A delinquent special charge becomes a lien on the property against which it is imposed as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under Wis. Stats. Ch. 74.

(Code 1998, § 6-2-2(d); Ord. No. 2003-02, § 54, 1-27-2002)

**State law reference(s)**—Construction and repair of sidewalks, Wis. Stats. § 66.0907(3)(d); special charge for repair of sidewalks, Wis. Stats. § 66.0627(3)(b).

**SECTION 123:**        **AMENDMENT** “53-127 Village Standards; Fees” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 53-127 Village Standards; Fees

- (a) All work performed under this Section and under Division 53-IV-3 of this Article shall be performed in accordance with current Village standards. At the conclusion of permittee's work, any street, curb and gutter, sidewalk or grass-covered area damaged or disturbed by the permittee shall be restored to the condition prior the permittee's work, unless otherwise directed by the Director of Public Works.
- (b) The fee for an excavation permit shall be the fee established by the Village Board from time to time and stated in Appendix A to this Code plus actual Village expenses. Permit fees shall be paid to the Village ~~Clerk~~-Treasurer who shall issue a receipt therefor.

(Code 1998, § 6-2-3(f); Ord. No. 2003-02, § 55, 1-27-2002; Ord. No. 2020-06, § 2, 2-10-2020)

**SECTION 124:**        **AMENDMENT** “53-128 Insurance Required” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 53-128 Insurance Required

- (a) Except as provided in this Section, a permit shall be issued only upon the condition that the applicant provide satisfactory written evidence to the Village ~~Clerk~~-Treasurer

that the applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$1,000,000.00 per one person, \$2,000,000.00 for one accident and property damage coverage of not less than \$1,000,000.00. The policy shall name the Village as the third party insured. An applicant may keep satisfactory proof of insurance on file with the Village for multiple projects on an annual basis.

- (b) In this Section, "Utility" means a public utility, as defined in Wis. Stats. § 196.01(5), and includes a telecommunications carrier, as defined in Wis. Stats. § 196.01(8m), but does not include any subcontractor of a Utility. A Utility is not required to comply with the insurance requirements of this Section, or provide a surety bond under Section 53-129, unless there are reasonable grounds to question the financial responsibility or compliance ability of the Utility, as may be determined by the Village Administrator.

(Code 1998, § 6-2-3(g); Ord. No. 2003-02, § 56, 1-27-2002; Ord. No. 2020-06, § 3, 2-10-2020)

**SECTION 125:        AMENDMENT "53-197 Failure To Remove Obstruction"**  
of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 53-197 Failure To Remove Obstruction

- (a) If the owner or occupant fails to remove the obstruction within the time period established in Sections 53-195 and 53-196 respectively, any Village enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten calendar days from receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Village ~~Clerk-Treasurer~~ shall enter those charges onto the tax roll as a special charge as provided by Wis. Stats. § 66.0627.
- (b) ~~The failure of the Village Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Village expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.~~

(Code 1998, § 6-2-5(f); Ord. No. 2003-02, §§ 59, 60, 1-27-2002; Ord. No. 2003-05, § 19, 3-24-2003)

**SECTION 126:            **AMENDMENT** “53-212 Required” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**53-212 Required**

- (a) The Village Clerk-Treasurer, upon the recommendation of the Director of Public Works and/or Building Inspector, is authorized to issue a sidewalk privilege permit that allows property owners to place certain fixtures, such as for the sale of merchandise, on sidewalks that immediately adjoin their property. In determining if a sidewalk privilege permit shall be authorized, all of the following requirements must be met:
- (1) The property must be located in an area zoned for commercial uses.
  - (2) The fixture shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
  - (3) The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than five feet at any point.
  - (4) The property owner shall provide the Village with proof of liability insurance coverage. The insurance coverage shall be an amount of not less than \$500,000.00 per occurrence and the policy shall specifically state that it includes coverage for the fixtures located on the Village sidewalks. In addition, the Village shall be identified as a third-party insured.
  - (5) The fixture shall not be for sale nor shall the fixture be used for the sale of merchandise. Specifically excluded are all forms of vending machines, vendors carts or tables, etc.
  - (6) The property owner whose property adjoins the Village sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.
  - (7) The property owner or the occupant of the subject property shall display the approved sidewalk privilege permit in the window of the building so that it can be seen from the sidewalk.
- (b) Upon reviewing the permit application if it is determined by the Village Clerk-Treasurer that all of the requirements listed in this Section have been met, the Village Clerk-Treasurer shall issue the sidewalk privilege permit. Said permit may be revoked by the Village President, Director of Public Works, Village Clerk-Treasurer, Building Inspector or any Village law enforcement officer ("Village enforcement officials") at any time when one or more of the requirements listed in this Section are not complied with or if it is determined that the placement of the fixture endangers the safety of the pedestrians who utilize the sidewalks.

(Code 1998, § 6-2-5(c); Ord. No. 2003-02, §§ 57, 58, 1-27-2002)

**SECTION 127:            **AMENDMENT** “53-239 When Required” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**53-239 When Required**

Street privilege permits for the use of the streets, alleys, sidewalks or other public ways or places of the Village may be granted to applicants by the Village Clerk-Treasurer for the purpose of encumbering the street, alley, sidewalk or way with materials, storage pods, and equipment, or other items, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code. The Village Clerk-Treasurer shall request advisory recommendations from the Chief of Police, Director of Public Works and Building Inspector prior to issuance of any street privilege permit. Village officials may also require the applicant submit proof of liability insurance with the application in an amount the Village determines necessary to protect the Village and the public. Regulations concerning the moving of buildings and structures upon public ways are contained in Article VI of Chapter 8 of this Code.

(Code 1998, § 6-2-6(a); Ord. No. 2003-02, § 61, 1-27-2002; Ord. No. 2003-05, § 20, 3-24-2003; Ord. No. 2020-06, § 5, 2-10-2020)

**SECTION 128:            **AMENDMENT** “53-240 Bond” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**53-240 Bond**

No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk-Treasurer a bond in an amount determined by the Director of Public Works not exceeding \$10,000.00, conditioned that the applicant will indemnify and save harmless the Village from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations.

(Code 1998, § 6-2-6(b); Ord. No. 2003-02, § 62, 1-27-2002; Ord. No. 2003-05, § 20, 3-24-2003; Ord. No. 2020-06, § 6, 2-10-2020)

**SECTION 129:            AMENDMENT “53-243 Termination” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**53-243 Termination**

All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Village Clerk-Treasurer.

(Code 1998, § 6-2-6(e); Ord. No. 2003-02, § 63, 1-27-2002; Ord. No. 2003-05, § 20, 3-24-2003)

**SECTION 130:            AMENDMENT “53-244 Removal By Village” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**53-244 Removal By Village**

In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within 24 hours after such notice from the Director of Public Works, Chief of Police or Building Inspector to do so, it shall be the duty of the Director of Public Works, Chief of Police or Building Inspector to remove such obstruction and make return of the costs and expenses thereof to the Village Clerk-Treasurer who shall enter such cost on the next annual charge roll as a special tax against the property abutting such obstructed sidewalk pursuant to Wis. Stats. § 66.0627.

(Code 1998, § 6-2-6(f); Ord. No. 2003-02, § 64, 1-27-2002; Ord. No. 2003-05, § 20, 3-24-2003)

**SECTION 131:            AMENDMENT “53-302 Notice And Removal Of Snow From Sidewalks And Hydrants” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**53-302 Notice And Removal Of Snow From Sidewalks And Hydrants**

If the owner, occupant or person in charge of any parcel or lot shall fail to keep a sidewalk or hydrant clear of snow and ice as required by Section 53-301, the Director of Public Works or a Village police officer shall take the following action:

- (a) *Hazardous conditions.* If the Director of Public Works or any Village police officer determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, and in all cases of the failure to remove snow and ice from a fire hydrant, the Director of Public Works or Village police officer shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be immediately removed. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the Director of Public Works or a police officer shall immediately cause the removal of the snow and/or ice. The Director of Public Works or police officer shall send a written notice to the last-known address of the property owner notifying the property owner that a hazardous condition existed that required immediate abatement.
- (b) *Nonhazardous conditions.* If the owner, occupant or person in charge of the subject parcel or lot fails to remove the snow within the time period established in Section 53-301, the Director of Public Works or a police officer shall cause the issuance of a written notice to said owner, occupant or person in charge of the subject parcel or lot directing the responsible person (as defined) to remove said snow and ice no later than 12:00 noon of the day following the issuance of said notice. The written notice shall be hand delivered when possible or mailed to the last-known address of the owner of the subject property as identified on the records in the Village Clerk-Treasurer's office.

(Code 1998, § 6-2-7(b); Ord. No. 2003-05, § 21(b), 3-24-2003)

**Editor's note(s)**—Ord. No. 2021-02, § 4, adopted Jan. 25, 2021 amended § 53-302 and in doing so changed the title of said section from "Notice and removal of snow from sidewalks" to "Notice and removal of snow from sidewalks and hydrants," as set out herein.

**SECTION 132:**            **AMENDMENT** "53-306 Abatement After Notice" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

53-306 Abatement After Notice

Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Section 53-302 after receiving a written notice shall result in the Director of Public Works causing the removal of said snow and/or ice. The Director of Public Works shall charge each owner of residential property a fee as established by the Village Board from time to time and provided in Appendix A to this Code to clear said ice and snow. The fee charged under this Section shall be the actual costs incurred by the Village for providing said service. Such charge shall be submitted to the affected property owner within one week after the charges are incurred. In addition, the Director of Public Works shall keep an accurate account of all such charges and report all such charges unpaid within 30 days after submission to the property owner to the Village ~~Clerk~~-Treasurer.

(Code 1998, § 6-2-7(f); Ord. No. 99-02, § 2, 1-11-1999; Ord. No. 2002-02, § 3, 1-14-2002; Ord. No. 2003-02, § 65, 1-27-2002; Ord. No. 2003-05, § 21(f), 3-24-2003)

**SECTION 133:**            **AMENDMENT** “53-307 Expense” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

53-307 Expense

An account of the expenses incurred by the Village to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Village ~~Clerk~~-Treasurer shall enter those charges onto the tax roll as a special charge as provided by Wis. Stats. § 66.0627.

(Code 1998, § 6-2-7(g); Ord. No. 2003-02, § 66, 1-27-2002; Ord. No. 2003-05, § 21(7), 3-24-2003)

**SECTION 134:**            **AMENDMENT** “2-508 Powers; Duties; Ethics” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

2-508 Powers; Duties; Ethics

- (a) *General powers.* Officers shall have generally the powers and duties prescribed for like officers of villages, except as otherwise provided, and such powers and duties as are prescribed by law and except as to the Village President, shall perform such duties

as shall be required of such officer by the Village Board. Officers whose powers and duties are not enumerated in Wis. Stats. Ch. 61, shall have such powers and duties as are prescribed by law for like officers or as are directed by the Village Board.

- (b) *Rules.* All officers and departments may make the necessary rules for the conduct of their duties and incidental proceedings which shall be reviewed and approved by the Village Board.
- (c) *Applicability of ethics statutes.* Wis. Stats. § 19.59 and the general laws for the punishment of bribery, misdemeanors and corruption in office, shall apply to Village officers and employees.
- (d) *Legal representation.* Whenever a Village official in official capacity proceeded against or obliged to proceed before any civil court, board or commission, to defend or maintain such official position, or because of some act arising out of the performance of official duties, and such official has prevailed in such proceedings, or the Village Board has ordered the proceedings discontinued, the Village Board may provide for payment to such official such sum as it sees fit, to reimburse the Village official for the expenses reasonably incurred for costs and attorney's fees.
- (e) *Open Meetings Law Compliance.* The Village Clerk-Treasurer shall be responsible for assuring that public notices required by the Wisconsin Open Meetings Law are properly posted for each meeting of any governmental body of the Village unless that duty is imposed on a different officer by this Code.

(Code 1998, § 2-3-1)

**SECTION 135:**        **AMENDMENT** “2-635 Fulfilling Other Responsibilities” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

2-635 Fulfilling Other Responsibilities

The Village Deputy Administrator shall be eligible for appointment to the office of Village Clerk and/or Village Treasurer-Treasurer pursuant to §2-509.

**SECTION 136:**        **AMENDMENT** “11-66 Restrictions On Temporary Class "B" And "Class B" Licenses” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

11-66 Restrictions On Temporary Class "B" And "Class B" Licenses

- (a) *Requirements.* No person or organization shall be granted a temporary Class "B" fermented malt beverage license or temporary "Class B" wine license by the Village Board, as authorized by Wis. Stats. § 125.26(6) and § 125.51(10), until such person or organization has met the applicable requirements under this Article and been approved pursuant to this Section.
- (b) *Procedure.* The applicant for a temporary Class "B" or "Class B" license shall submit a completed application to the Village Clerk-Treasurer, on a form approved by the Village Clerk-Treasurer, providing all information required for the issuance of the license and all applicable information required for an event permit under of Chapter 36 of this Code. The application shall also include the following:
- (1) The proposed location, dates and times where alcohol beverages will be sold.
  - (2) A sketch showing the layout for handling sales of alcohol beverages.
  - (3) The names, address, and prior relevant experience, if any, of every person proposed to sell alcohol beverages.
  - (4) A statement that the person or organization agrees to promptly pay the Village for the Village's charges incurred either in regulating this license or in remedying any unsatisfactory post-event maintenance by the person or organization.
  - (5) A copy of the application or license of each person holding the beverage operator's license who will supervise the sales of alcohol beverages.
  - (6) A certificate of insurance in the amount of \$1,000,000.00 per person, \$2,000,000.00 per occurrence and \$1,000,000.00 property damage and naming the Village as an additional insured.
  - (7) Such application shall also contain such other reasonable and pertinent information as the Village Board may, from time to time, require.
- (c) *Standards for issuance of license.* The Village Board shall not issue a temporary Class "B" or "Class B" license unless it is satisfied that the following standards will be met by the applicant:
- (1) The applicant may sell alcohol beverages only from locations that are physically separate from locations where any other items are sold.
  - (2) The location where alcohol beverages are sold shall not be accessible to the public, except from the selling point.
  - (3) The Village shall provide and the applicant shall post conspicuous notices at the point of sale prohibiting the presence of minors at the point of sale and the sale of alcohol beverages to minors or intoxicated persons.
  - (4) Prior to the special event, the applicant shall contact the Police Department for instruction in the proper sale of alcohol beverages and to arrange for routine on-site police protection and patrol. At the time the Village Board considers the application, the Chief of Police shall report what on-site arrangements are appropriate and the arrangements made by the applicant.
  - (5) A person holding a beverage operator's license shall supervise all sales of alcohol beverages at the point of sale. Said person shall restrict access to the point of sale to those persons actually selling alcohol beverages.
- (d) *Exception.* In its sole discretion, the Village Board may prescribe additional reasonable requirements based on the particular circumstances of the special event to provide

adequate security of the premises or at the point of sale. The Village Board may also waive any requirements of this Section in circumstances where the Village Board finds, on the basis of the applicant's representations, that security is adequate without the specific requirement.

(Code 1998, § 7-2-16)

**Editor's note(s)**—Ord. No. 2019-02, § 5, adopted March 11, 2019, changed the title of § 11-66 from "Restrictions on temporary Class "B" fermented malt beverage or wine special event license" to read as herein set out.

**State law reference(s)**—Temporary Class "B" license, Wis. Stats. § 125.26(6).

**SECTION 137:            AMENDMENT** "11-136 Revocation Of Licenses" of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-136 Revocation Of Licenses

- (a) *Grounds.* Any license issued under this section may be revoked by the Village Board after notice and hearing if:
- (1) The seller made any material omission or any false, materially misleading or otherwise untrue statement in the application for a license.
  - (2) The seller has made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales.
  - (3) The seller has violated any provision in this chapter.
  - (4) The seller has been convicted of any felony, misdemeanor, ordinance violation or other offense, the circumstances of which substantially relate to the circumstances of direct sales activities, and the seller fails to show competent evidence of sufficient rehabilitation and fitness to perform direct sales activities.
- (b) *Revocation hearing.*
- (1) *Notice of hearing.* Written notice of a hearing before the Public Safety Committee on the revocation of any license issued under this section shall be mailed to the licensee at the permanent address shown on the registration at least seven days, or shall be served personally at least 72 hours, prior to the time set for the hearing. Such notice shall contain the time and place of the hearing and a statement of the facts upon which the hearing will be based.
  - (2) *Hearing.* The Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding revocation of the direct seller's license. If the licensee fails to appear before the Public Safety Committee, the Public Safety Committee shall forward to the Village Board a recommendation for revocation of the license. At the hearing, both the Village

and the seller may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The hearing shall be recorded. The Village Board shall issue findings and a decision within 30 days after the hearing.

- (c) *Temporary suspension.* Any law enforcement officer who has probable cause to believe that a person issued a license or permit under this chapter has committed a criminal offense or violated any provision of this chapter in the course of direct sales or solicitation activities may immediately suspend the person's license or permit pending a hearing under Subsection (2). The suspension shall be immediately reported to the Village Clerk-Treasurer who shall schedule a hearing as soon as practicable, unless review of the suspension is waived by the licensee or permittee.

**SECTION 138:            **AMENDMENT**** “11-354 Application” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-354 Application

- (a) All applications for a new tourist rooming house permit or renewal shall be filed with the Village Clerk-Treasurer on forms provided by the Village Clerk-Treasurer. All applications must be filed by the property owner. Each applicant shall certify to the Village that the tourist rooming house included in the permit is in compliance with the provisions of this Chapter. No permit shall be issued unless the completed application form is accompanied by payment of the required fee.
- (b) Each application for a new permit shall include the following information and documentation for each tourist rooming house:
- (1) A nuisance response plan as described in Section 11-359.
  - (2) A current Tourist Rooming House License issued by Public Health of Madison and Dane County, or other applicable entity, under Wis. Stats. § 97.605, or a copy of the completed application submitted for said license if the license has not been issued.
  - (3) A copy of a completed Public Health of Madison and Dane County, or other applicable entity, tourist rooming house inspection form dated within one year of the date of issuance or renewal.
  - (4) Proof of liability insurance. Such insurance shall be a commercial general liability, hotel or short-term rental policy that specifically covers liabilities arising from rental of the tourist rooming house for short-term rentals. The policy shall provide no less than \$1,000,000.00 coverage, per occurrence. Claims-made coverage shall not be acceptable insurance under this Article.
  - (5) Seller's permit from the State of Wisconsin Department of Revenue. (Not required for those operator's solely utilizing a lodging marketplace for bookings).

- (6) Floor plan and requested maximum occupancy.
  - (7) Site plan including available onsite parking.
  - (8) Local agent agreement reflecting the local agent's authority and acceptance of all responsibilities under this Article, if applicable.
  - (9) Designation of the local agent, if applicable.
  - (10) Proof of a successful inspection by the Village Building Inspector and Village Fire Inspector, required under Section 11-358.
  - (11) A statement if the applicant intends to rent the tourist rooming house for periods of time fewer than seven (7) days.
  - (12) For those owners renting the tourist rooming house for periods of time fewer than seven (7) days, two separate items of documentation showing that the proposed Tourist Rooming House owner is a Village Resident. Identifying documents must contain the owner's current and complete name, and a current and complete residential address. Adequate identifying documents that contain the required information include the following, documents must be unexpired or issued within 90 days of proposed permitting period: a valid identification card issued under Wis. Stats. 343.50, a residential lease, a bank statement a paycheck or paystub, or a check or other document issued by a unit of government, an identification card issued by a federally recognized tribe in this state, and other document deemed acceptable by the Village Clerk-Treasurer.
  - (13) For Village Business renting the tourist rooming house for periods of time fewer than seven (7) days, documentation showing that the business's principal place of business is located within the Village of McFarland and that the business is owned and operated by a Village Resident.
  - (14) Any other information requested on the application form deemed necessary in the reasonable discretion of the Village Clerk-Treasurer to evaluate the application under this Article.
- (c) Applications for renewal of a permit are not required to include the documentation for items listed in paragraphs (6) through (9) unless the information has changed from the preceding application.

**SECTION 139:**            **AMENDMENT** "11-355 Terms And Filing Date" of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

11-355 Terms And Filing Date

Each permit shall run from July 1 through June 30 of the following year and shall not be transferrable to any other place or person. All renewal applications must be filed by May 1 of each year. The filing fee shall be paid upon filing of the application. The Clerk-Treasurer may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the information and documentation shall not be considered as complete. The permit may not be issued unless and until a Tourist Rooming House License has been issued by Public Health of Madison and Dane County.

**SECTION 140: AMENDMENT** “11-356 New Application Review Procedure” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 11-356 New Application Review Procedure

- (a) Issuance of a permit by the Village Clerk-Treasurer
  - (1) Prior to issuance of the permit, the Village Clerk-Treasurer shall send a notification to all property owners within 500 feet of the proposed tourist rooming house. The notice shall contain the application and information on tourist rooming houses, standards of Tourist Rooming houses contained in the Village Ordinance, and the process to report violations or nuisances outlined in this chapter. The applicant shall prepay the cost of sending such notice before the notices are sent.
  - (2) The Village Clerk-Treasurer shall issue a permit as soon as practicable, unless the Village eClerk-Treasurer determines one or more of the following:
    - a. The application is incomplete, or information required in section 11-354 has not been met.
    - b. The application or support documents contain any false or materially misleading information or any material omission.
  - (3) The permit shall contain all of the following information:
    - a. The name and address of the property owner.
    - b. The name, address and phone number of the local agent.
    - c. The maximum occupancy for the premises
    - d. The permit term.
- (b) Non-Issuance of a permit by the Village Clerk-Treasurer.
  - (1) Except as provided in 11-356(2), if an application is not approved by the Village Clerk-Treasurer, a notice shall be provided to the applicant, in writing, contained a statement of the reasons for the denial, including specifics regarding reason for denial. The written notice to the applicant shall also provide notice of right to a hearing as provided under 11-365(c) below.
- (c) Appeals Process
  - (1) Any person whose application has not been approved by the Village eClerk-Treasurer may recommendationappealofthat decision to the Public Safety

- Committee by providing written notice to the Village Clerk-Treasurer within 14 days of the Village eClerk-Treasurer mailing notice of denial of the permit.
- (2) Upon appeal, the Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding the issuance of a Tourist Rooming House permit. If the applicant fails to appear before the Public Safety Committee, the Public Safety Committee shall forward a recommendation for non-issuance of the permit. At the hearing, both the Village and the applicant may introduce evidence, produce witnesses, cross-examine witnesses, and be represented by counsel. The hearing shall be recorded.
  - (3) The Village Board shall issue written findings and a decision regarding the issuance of the permit within 30 days after the hearing.

**SECTION 141:            **AMENDMENT**** “11-357 Renewal” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**11-357 Renewal**

- (a) Upon receipt of any renewal application and determination that the application is complete, the Village Clerk-Treasurer shall request reports from the Police Department and the Community Development Department regarding any complaints received, calls for service or actions taken regarding the permitted properties. The Clerk-Treasurer shall issue renewal permits within 45 days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Article or the reports from the Police Department and the Community Development Department indicate that there have been complaints or actions involving the property.
- (b) If the Clerk-Treasurer finds that the permit should not be renewed because the application demonstrates that the requirements of Sections 11-352 and 11-354 are not met, or that due to complaints or actions during previous permit year, the application should be forwarded on to the Public Safety Committee, to hold a hearing on non-renewal of the permit in accordance with the procedure set forth in 11-356(b) and (c) apply .

**SECTION 142:            **AMENDMENT**** “11-359 Content Of Nuisance Response Plans” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

## 11-359 Content Of Nuisance Response Plans

Each nuisance response plan accompanying an application for a permit required by this chapter shall contain the following information and otherwise be in a form required by the Village Clerk-Treasurer:

- (a) The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a tourist rooming house pursuant to the permit;
- (b) The name, address and telephone number of the local agent(s) who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the tourist rooming house by tenants, their visitors or their guests. For the purposes of this Section, a return telephone call to a complainant within 45 minutes of the initial complaint shall be deemed "prompt."
  - (1) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and
  - (2) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, or different weeks of the year;
  - (3) Any such person designated shall have the powers of a local agent.
- (c) The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.
- (d) The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this chapter, "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the tourist rooming house within 30 minutes of the initial nuisance complaint.
- (e) The number of off-street parking spaces and number of bedrooms available at the tourist rooming house.

**SECTION 143:**        **AMENDMENT** "11-362 Taxes And Fees" of the Village of McFarland Municipal Code is hereby *amended* as follows:

### AMENDMENT

#### 11-362 Taxes And Fees

The owner or operator of a tourist rooming house shall pay room tax in accordance with Chapter 23, Article II, Division 6 of the McFarland Municipal Code. Fees under this Article shall be as established by the Village Board from time to time and set forth in Appendix A of this Code. Failure of the owner or operator to pay a required room tax, or failure by the owner or operator to timely file an accurate return required under Chapter 23, shall be grounds for summary suspension of a tourist rooming house permit. In the event the Village Clerk-Treasurer determines that an owner or operator of a tourist rooming house is in violation of this section or Chapter 23, Article II, Division 6, then an order for immediate suspension of the tourist rooming house permit shall be issued which shall be effective until such violation is corrected. Such order shall be served upon the owner or local agent in writing and shall include notice of the right to appeal such determination pursuant to Chapter 2, Article XI of the McFarland Municipal Code.

**SECTION 144:            AMENDMENT "11-364 Suspension And Revocation" of the Village of McFarland Municipal Code is hereby *amended* as follows:**

#### AMENDMENT

#### 11-364 Suspension And Revocation

- (a) A permit issued under this Article may be suspended or revoked for the reasons set forth herein. For purposes of this subsection, "habitual" means two occurrences of any violation or combination of violations within any 12-month period or three such occurrences within any five-year period. Violations include those committed by the owner, local agent, or any guest of the tourist rooming house.
- (1) Habitual violations of Sections 11-359 or 11-361(c).
  - (2) Habitual violations of Sections 20-58, 20-59, 20-77, 20-79 or 20-80 of the McFarland Municipal Code.
  - (3) Habitual occurrences of any conduct on the premises that could be prosecuted under Wis. Stats. chs. 940 to 967 or local ordinance substantially similar thereto.
  - (4) Habitual violations of Sections 38-94, 38-98 or 38-128 of the McFarland Municipal Code.
  - (5) Habitual violations of any other local ordinance arising out of or connected to the operation of the tourist rooming house and that would tend to impair the peaceful use and enjoyment of other property in the neighborhood.
  - (6) Notwithstanding any other provision of this Section, the occurrence of any violation of local ordinance or state statute that causes or creates an imminent threat of death or substantial bodily harm to any person.
- (b) A permit issued under this Article shall be suspended or revoked for any violation of this Article that establishes a fundamental conditions or prerequisite to the lawful operation of the tourist rooming house or the violation of any state or local statute, ordinance or regulation that relates to the health or safety of the occupants of a tourist

rooming house.

(c) *Procedure.*

(1) *Summary suspension.* In the event the Building Inspector or Fire Inspector determines the tourist rooming house is in violation of any building or fire code that presents a substantial and imminent risk to the health or safety of occupants of the tourist rooming house an order for immediate suspension of the tourist rooming house permit shall be issued which shall be effective until such violation is corrected. Such order shall be served upon the owner or local agent in writing and shall include notice of the right to appeal such determination pursuant to Chapter 2, Article XI of the McFarland Municipal Code.

(2) *Suspension or revocation after notice and hearing.*

- a. The Building Inspector, Chief of Police, or Village Administrator may, upon determining that grounds exist for suspension or revocation of a permit under this chapter, may commence proceedings therefor by serving a complaint upon the owner or local agent setting forth the grounds for such proceedings. Service of the complaint shall be obtained in the manner for service of civil complaints pursuant to Wis. Stats. § 801.11. The complaint shall be accompanied by notice stating that the owner shall, within 20 days of the date of service, file with the Village Clerk-Treasurer, an answer to the complaint admitting or denying the allegations in the complaint and if any allegations are denied, an explanation of the basis for denial.
- b. Upon receipt of the answer, the Village Clerk-Treasurer shall provide notice to the owner of the date and time of a hearing before the Public Safety Committee at which evidence will be heard on all contested issues of fact and, if grounds for suspension or revocation are admitted or found, whether the Public Safety Committee will recommend to the Village Board whether the permit shall be suspended or revoked. The hearing shall be conducted in accordance with Section 2-996 of the McFarland Municipal Code. The Public Safety Committee shall make written findings of fact and conclusions of law supporting its recommendation which shall be based upon the documents and evidence presented at the hearing.
- c. The Public Safety Committee in making its recommendation and the Village Board, in determining whether the permit shall be suspended or revoked, shall consider the purposes of this Article which shall include specific consideration of the following factors:
  1. The seriousness of the offense or offenses.
  2. The owner's actions and diligence in responding to violations.
  3. The owner and local agent's cooperativeness with Village officers, agents and employees.
  4. The history of the tourist rooming house operation.
- d. If the Village Board determines the permit should be suspended, such suspension shall be for no less than 30 days, nor greater than 120

- days.
- e. The permit may be revoked if the Village Board determines that the owner has demonstrated an inability or unwillingness to ensure compliance with all applicable rules and regulations or the alleged violations are of such a serious nature that revocation is necessary to protect the public health or safety.
  - f. The Village Board's determination shall be considered a final determination under Section 2-997 and judicial review may be had pursuant to Section 2-998 of the McFarland Municipal Code.
- (3) *Costs.* If the Village Board determines that the permit shall be suspended or revoked, the costs incurred by the Village in conducting the hearing shall be paid by the owner. An invoice for such costs shall be mailed to the owner at the address on the most current tax roll or as otherwise specified by the owner and if not paid, shall be placed on the tax roll as a special charge against the property upon which the tourist rooming house is operated pursuant to Wis. Stats. § 66.0627.
- (d) This Subsection is not the exclusive procedure by which action may be taken that directly or effectively constitutes a suspension or revocation of a permit under this Article. The Village may pursue any other actions affecting the tourist rooming house authorized by law in addition to or in lieu of the remedies set forth herein.

**SECTION 145:            AMENDMENT “11-404 Revocation” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**A M E N D M E N T**

**11-404 Revocation**

- (a) A mobile food establishment permit may be revoked by the Village after notice and hearing if the licensee:
  - (1) Made any material omission or materially inaccurate statement in the application for license.
  - (2) Made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in sale of food, drinks, or materials incidental to food or drinks.
  - (3) Violated any section of this article, including, but not limited to, Section 11-405.
  - (4) Subject to applicable state statutes, the licensee was arrested or convicted of a crime, statutory violation, or ordinance violation.
- (b) Notice of hearing. Written notice of hearing before the Public Safety Committee on the revocation of any license issued under this section shall be mailed to the permit holder at the permanent address shown on the application at least seven days, or shall be served personally at least 72 hours, prior to the time set for the hearing. Such notice

shall contain the time and place of the hearing and a statement of the facts upon which the hearing will be based.

- (c) Hearing. The Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding revocation of the mobile foot cart permit. If the permittee fails to appear before the Public Safety Committee, the Public Safety Committee may forward to the Village Board a recommendation for revocation of the permit. At the hearing, both the Village and the permittee may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The hearing shall be recorded. The Village Board shall issue findings and a decision within 30 days after the hearing.
- (d) In the event the Clerk-Treasurer, Chief of Police, or Village Administrator determine that the mobile food cart permit is in violation of any law, ordinance, or regulation, that presents a substantial and imminent risk to the health or safety of the public, order immediate suspension of the mobile food cart permit, until such time as the violation is corrected, or a revocation proceeding finalized. Such order of suspension shall be served upon the permittee in writing and shall include notice of the right to appeal such determination pursuant to Chapter 2, Article XI of the McFarland Municipal Code.

**SECTION 146:            **AMENDMENT**** “23-132 Administration; Payment; Returns; Extensions” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 23-132 Administration; Payment; Returns; Extensions

- (a) This section shall be administered by the Village ~~Clerk-Treasurer~~.
- (b) The tax imposed for each calendar quarter is due and payable on the last day of the month next succeeding the calendar quarter for which the tax is imposed.
- (c) A return shall be filed with the Village ~~Clerk-Treasurer~~, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Village ~~Clerk-Treasurer~~ deems necessary.
- (d) Every person required to file such quarterly return shall, with the first return, elect to file an annual calendar-year or fiscal-year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the Village ~~Clerk-Treasurer~~ requires. Such annual returns shall be made on forms as prescribed by the Village ~~Clerk-Treasurer~~. All such returns shall be signed by the person required to file a return or his/her duly authorized agent, but need not be verified by oath.
- (e) The Village ~~Clerk-Treasurer~~ may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

**SECTION 147:            **AMENDMENT** “23-133 Disposition Of Proceeds And Oversight By Village Board” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**23-133 Disposition Of Proceeds And Oversight By Village Board**

- (a) The Village Board shall monitor, by reviewing quarterly reports from the Village ~~Clerk-Treasurer~~, collection and allocation of room taxes from hotels and motels located within the Village.
- (b) The Village Board shall establish a contract with a tourism entity, as defined in Wis. Stats. § 66.0615(1)(f), to assist with tourism promotion and tourism development.
- (c) The Village Board shall provide the tourism entity contracted with pursuant to Subsection (b) of this Section with 70 percent of the room tax revenue on a quarterly basis within 45 days following collection of that quarter’s room tax, to carry out the activities set forth in Subsection (b) of this Section.
- (d) The tourism entity contracted with pursuant to Subsection (b) of this Section shall submit an annual report to the Village Board by March 1 each year detailing how their percentage of the hotel room tax revenue was spent on tourism promotion and tourism development in the preceding year. This report shall, at the minimum, include the information required to be filed with the Wisconsin Department of Revenue pursuant to Subsection (f) of this Section.
- (e) The 30 percent of the hotel room tax retained by the Village and shall be disbursed or deposited as directed by the Village Board.
- (f) Beginning May 1, 2018, on or before May 1 of each year, the Village ~~Clerk-Treasurer~~ shall file an annual report with the Wisconsin Department of Revenue, using the form created and provided by the Department of Revenue. The report shall include all of the following:
  - (1) The amount of room tax collected and the room tax rate imposed in the previous year; and
  - (2) A detailed accounting of the amounts of revenue forwarded to the tourism entity pursuant to subsection (c) of this section and a detailed accounting of expenditures of \$1,000.00 or more made by the tourism entity; and
  - (3) A list of each member of the governing body of the tourism entity and the name of the business entity each member owns, operates, or is employed by, if any.
- (g) The Village ~~Clerk-Treasurer~~ shall submit an annual report to the Village Board by May 1 each year detailing and summarizing how the room tax revenue was spent on tourism promotion and tourism development.
- (h) Neither the Village nor the tourism entity contracted with pursuant to Subsection (b) of this Section may use any of the room tax revenue it receives to construct or develop a transient lodging facility.

**SECTION 148:**        **AMENDMENT** “23-134 Sale Of Business” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

23-134 Sale Of Business

If any person liable for any amount of tax under this section sells the business or stock of goods or quits the business, the person's successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Village ~~Clerk~~-Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, that person shall become personally liable for payment of the amount required to be withheld to the extent of the purchase price valued in money.

**SECTION 149:**        **AMENDMENT** “23-135 Office Audits” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

23-135 Office Audits

The Village ~~Clerk~~-Treasurer may, by office audit, determine the tax required to be paid to the Village or the refund due to any person under this section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Village ~~Clerk~~-Treasurer's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

**SECTION 150:**        **AMENDMENT** “23-136 Field Audits” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

23-136 Field Audits

The Village Clerk-Treasurer or designee may, by field audit, determine the tax required to be paid to the Village or the refund due to any person under this Section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Village Clerk-Treasurer's possession. Whenever the Village Clerk-Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Village Clerk-Treasurer, including any designated agent, is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Village Clerk-Treasurer from making a determination of tax at any time.

**SECTION 151:**        **AMENDMENT** "23-137 Required Recordkeeping" of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**23-137 Required Recordkeeping**

Every person liable for the tax imposed by this Section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Village Clerk-Treasurer requires.

**SECTION 152:**        **AMENDMENT** "23-138 Records Confidential; Exceptions" of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**23-138 Records Confidential; Exceptions**

- (a) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Village Clerk-Treasurer are deemed to be confidential, except the Village Clerk-Treasurer may divulge the contents to the following, and no others:
  - (1) The person who filed the return.
  - (2) Officers, agents, or employees of the Federal Internal Revenue Service or the Wisconsin Department of Revenue.
  - (3) Officers, employees, or agents of the Village Administrator.
  - (4) Such other public officials of the Village, when deemed necessary.
  - (5) Pursuant to a valid subpoena or search warrant.
- (b) Any person who violates or is in noncompliance with, any of the provisions of this Section or Section 23-139 shall be subject to a forfeiture of not less than \$100.00, nor more than \$500.00.

**SECTION 153:            AMENDMENT “23-140 Failure To File Return; Estimated Tax” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**23-140 Failure To File Return; Estimated Tax**

If any person fails to file a return as required by this Section, the Village ~~Clerk-Treasurer~~ shall make an estimate of the amount of the gross receipts. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Village ~~Clerk-Treasurer's~~ possession or may reasonably be obtained. On the basis of this estimate the Village ~~Clerk-Treasurer~~ shall compute and determine the amount required to be paid to the Village.

**SECTION 154:            AMENDMENT “23-141 Penalties And Interest For Failure To Pay” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**23-141 Penalties And Interest For Failure To Pay**

A forfeiture of 25 percent of the room tax due for the previous year or \$5,000.00, whichever is less, of the tax imposed, is hereby established and due and owing in the event that the room tax is not paid within 30 days after the due date of return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate of one percent per month from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Village ~~Clerk-Treasurer~~. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation.

**SECTION 155:            AMENDMENT “23-142 Penalties For Refusal To Permit Inspection And Audit” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

**AMENDMENT**

**23-142 Penalties For Refusal To Permit Inspection And Audit**

Any person who is subject to the tax imposed by this section who fails to obtain a permit as required in Section 10-274, or who fails or refuses to permit the inspection of his/her records by the Village Clerk-Treasurer after such inspection has been duly required by the Village Clerk-Treasurer, or who fails to file a return as provided in this section, or who violates any other provisions of this Section, shall be subject to a forfeiture not to exceed \$250.00. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed five percent of the tax imposed by this Section.

**SECTION 156:**        **AMENDMENT** “36-5 Special Requirements” of the Village of McFarland Municipal Code is hereby *amended* as follows:

### AMENDMENT

#### 36-5 Special Requirements

(a) *Parade restrictions.*

- (1) Drivers to stay near right-hand edge of roadway. Each driver in any procession, shall drive as near to the right-hand edge of the roadway as practical, except upon one-way streets or when otherwise directed or approved by a police officer, and shall follow the vehicle ahead as close as is practical and safe.
- (2) No person who leads or participates in a parade shall disobey, or encourage others to disobey, the direction of any police officer, the terms of this Chapter, or the terms of the applicable event permit.
- (3) Sponsors or organizers shall obtain any county or state permits that may be required for use of any roadway under the jurisdiction of the county or state.
- (4) Only Community Organizations may be issued an event permit for a parade, and no event permit shall be issued for a parade that is primarily for private economic or commercial purposes.

(b) *Petition required for street use events.* An application for an event permit for a street use event shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than 75 percent of the residents over 18 years of age residing along that portion of the street designated for the proposed use. Said petition shall be in a form provided in the application packet. Events involving a marathon, bicycle race, run/walk race, triathlon, or other athletic event do not require a petition.

(c) *Petition required for neighborhood events.* Applicants shall apply for a neighborhood event on a form provided by the Village Clerk-Treasurer, no less than two weeks prior to the event. The application shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition shall be signed by not less than 75 percent of the residents over 18 years of age residing along that portion of the street designated for the proposed use.

The Director of Public Works or designee is given authorization to approve or deny street use permits for block parties in coordination with recommendations from the Police Department and Fire/EMS Department. If approved, the Clerk/Treasurer shall issue a permit. If denied, the applicant may appeal to the Village Board by filing a notice of appeal with the Village Clerk/Treasurer within ten days of notification of denial. The applicant must state the basis of appeal. The Village Board may be majority vote to reverse or modify the decision.

**SECTION 157:** AMENDMENT “36-7 Application Review” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 36-7 Application Review

If the Village Clerk-Treasurer determines that the event permit application is timely and complete, including payment of the application fee, the Village Clerk-Treasurer shall immediately forward copies of the same to the Director of Public Works, the Chief of Police, and the Fire/EMS Chief who shall consider the same and make recommendation thereon. Village staff may require the applicant to provide additional information in support of the application if deemed necessary for review purposes. Incomplete or untimely applications will not be forwarded for review or approval.

The Director of Public Works or designee is given authorization to approve or deny permits for block parties in coordination with recommendations from the Police Department and Fire/EMS Department. If approved, the Clerk/Treasurer shall issue a permit.

**SECTION 158:** AMENDMENT “36-8 Review By The Public Safety Committee” of the Village of McFarland Municipal Code is hereby *amended* as follows:

#### AMENDMENT

##### 36-8 Review By The Public Safety Committee

- (a) Complete event permit applications shall be forwarded with staff recommendations to the Public Safety Committee for review and recommendation to the Village Board, except that annual recurring events that propose no substantial changes from the previous year(s) shall be reviewed by the Chief of Police, who may make a recommendation of approval or denial directly to the Village Board. The Village Board will ultimately approve or deny all applications for event permits, and the Village Board may impose any conditions or restrictions it deems appropriate as part of any event permit. The Village Board may waive the requirement for an event permit

within its sole discretion.

- (b) The Village reserves the authority, under its sole discretion, to refer any event permit application to any pertinent committee for review.
- (c) If the Public Safety Committee recommends denial of an event permit application, the application will not be forwarded to the Village Board for review unless the applicant submits a written request to the Village Clerk-Treasurer within ten days of the Public Safety Committee's decision, and the applicant's failure to make this request will result in the application being denied.

**SECTION 159:**        **AMENDMENT** "36-9 Issuance Of Permit" of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**36-9 Issuance Of Permit**

If the Village Board approves the issuance of the event permit, the Village Clerk-Treasurer shall issue the event permit, subject to any restrictions and conditions imposed by the Village Board. Prior to issuance of the event permit, the applicant shall provide adequate proof of insurance to the Village Clerk-Treasurer and shall deposit of any funds required by the Village Board as a condition of approval. Upon issuance of the event permit, the applicant shall comply with all requirements and conditions as set forth in the event permit, along with all applicable federal and state laws and regulations, and Village ordinances. The applicant shall also meet the requirements of Section 11-1.

**SECTION 160:**        **AMENDMENT** "62-712 Wellhead Protection Plan" of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**62-712 Wellhead Protection Plan**

The Village of McFarland adopted a wellhead protection plan on January 23, 2017. This plan developed detailed studies of all of McFarland's existing wells together with future McFarland Well #5. The wellhead protection plan is adopted by this reference into this Article, and shall be publicly available on the Village's website and at the Village Clerk-Treasurer's office.

**SECTION 161:**        **AMENDMENT** "2-516 (Reserved)" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AMENDMENT

~~2-516 (Reserved)~~ Village Treasurer and Deputy Treasurer

**2-516 - Treasurer**

(a) Appointment. The Village Treasurer shall be appointed by the Deputy Village Administrator and shall hold office for an indefinite term, subject to removal by the Deputy Village Administrator at pleasure. The Treasurer shall, by virtue of his or her office, have all the powers and duties set forth for village treasurers in §§61.26 and 61.261, Wis. Stats., and such further duties as shall be assigned by the Village Board from time to time.

(b) Deputy Village Treasurer. The Village Treasurer may, subject to approval of the Village Administrator or Deputy Village Administrator, appoint a Deputy Treasurer in writing filed in the office of the Village Clerk, who shall act under the direction of the Treasurer and who, during the temporary absence or disability of the Treasurer, shall perform the duties of the Treasurer.

~~Editor's note(s) — At the request of the city, § 2-516 has been removed. Former § 2-516 pertained to Village Treasurer and Deputy Village Treasurer, and derived from the 1998 Code, § 2-3-4; Ord. No. 2003-02, § 3, adopted Jan. 27, 2002; and Ord. No. 2017-11, § 6, adopted May 8, 2017.~~

**SECTION 162:            AMENDMENT “2-513 Removal From Office” of the Village of McFarland Municipal Code is hereby *amended* as follows:**

AMENDMENT

2-513 Removal From Office

- (a) *Elected officials.* Elected officials may be removed by the Village Board as provided in Wis. Stats. § 17.13(2).
- (b) *Appointed officials.* Appointed officials may be removed as provided in Wis. Stats. § 17.123(1)(~~e~~).

(Code 1998, § 2-3-20)

**State law reference(s)**—Removal of village officers, Wis. Stats. § 17.13.

**SECTION 163:            AMENDMENT** “2-515 Village Clerk-Treasurer, Deputy Village Clerk And Deputy Village Treasurer” of the Village of McFarland Municipal Code is hereby *amended* as follows:

**AMENDMENT**

**2-515 Village Clerk-Treasurer, Deputy Village Clerk And Deputy Village Treasurer**

- (a) *Appointment.* The office of Village Clerk-Treasurer shall be filled by appointment by the Deputy Village President Administrator, subject to confirmation by the Village Board. The Village Clerk-Treasurer shall have the duties and responsibilities set forth in Wis. Stats. § 61.25 and § 61.26 in addition to any duties and responsibilities those set forth in this Code. The Village Clerk-Treasurer shall hold office for an indefinite term, subject to removal by a vote of the Village Board as provided by Wis. Stats. §17.13(1)
- (b) *Deputy Village Clerk.* ~~There shall be a Deputy~~ The Village Clerk may appoint a Deputy Village Clerk with the approval of the Administrator or Deputy Administrator. The Deputy Village Clerk shall assist the Village Clerk-Treasurer in performing the duties of that office under Wis. Stats. § 61.25 and clerk duties under this Code, and shall have all of the powers and duties of the Clerk in his or her absence.
- (c) *Deputy Village Treasurer.* ~~There shall be a Deputy Village Treasurer. The Deputy Village Treasurer shall assist and work under the direction of the Village Clerk-Treasurer in performing the duties of that office.~~

(Code 1998, § 2-3-3; Ord. No. 2003-02, § 2, 1-27-2002; Ord. No. 2003-05, § 7, 3-24-2003)

**Editor's note(s)**—~~Ord. No. 2017-11, § 3, adopted May 8, 2017, changed the title of § 2-515 from "Village Clerk and Deputy Village Clerk" to "Village Clerk-Treasurer and Deputy Village Clerk. Subsequently, the title of § 2-515 was renamed at the request of the city to read as herein set out. Charter Ordinance 2024-07, enacted on January 30, 2024, separated the offices of clerk and treasurer, which had been combined by previous charter ordinance.~~

**Charter Ordinance reference**—~~Powers and duties of the Village Clerk and Village Treasurer, Ord. of 7-11-1994. Charter Ordinance 2024-07, enacted 1-30-24.~~

**State law reference(s)**—Village clerk, Wis. Stats. § 61.25.

PASSED AND ADOPTED BY THE VILLAGE OF MCFARLAND VILLAGE BOARD

April 11, 2024

|             | <b>AYE</b> | <b>NAY</b> | <b>ABSENT</b> | <b>ABSTAIN</b> |
|-------------|------------|------------|---------------|----------------|
| Brandt      | <u>X</u>   | _____      | _____         | _____          |
| Brassington | <u>X</u>   | _____      | _____         | _____          |
| Clow        | <u>X</u>   | _____      | _____         | _____          |
| Fessler     | <u>X</u>   | _____      | _____         | _____          |
| Flaherty    | <u>X</u>   | _____      | _____         | _____          |
| Jerke       | <u>X</u>   | _____      | _____         | _____          |
| Wreh        | <u>X</u>   | _____      | _____         | _____          |

Presiding Officer

Attest

Carolyn Clow  
Carolyn Clow, Village President,  
Village of McFarland

Tanya O'Malley  
Tanya O'Malley, Interim  
Clerk/Treasurer, Village of McFarland

