

## Chapter 44

### OFFICERS AND EMPLOYEES

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[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Title 2, Ch. 3 of the 1992 Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Emergency Management Director -- See Ch. 26, § 26-3.  
Code of Ethics -- See Ch. 28.

#### § 44-1. General powers and regulations.

A. General powers. Officers shall have generally the powers and duties prescribed for like officers of towns and 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 him by the Village Board. Officers whose powers and duties are not enumerated in W.S.A. 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.

C. Applicability of ethics statutes. The general laws for the punishment of bribery, misdemeanors and corruption in officers shall apply to village officers.<sup>1</sup>

D. Legal representation. Whenever a village official in his official capacity proceeded against or obliged to proceed before any civil court, board or commission to defend or maintain his official position, or because of some act arising out of the performance of his official duties, and he has prevailed in such proceedings, or the Village Board has ordered the proceedings discontinued, the Board may provide for payment to such official such sum as it sees fit, to reimburse him for the expenses reasonably incurred for costs and attorney's fees.

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<sup>1</sup> Editor's Note: See Ch. 28, Code of Ethics.

## **§ 44-2. Appointed officials.**

A.<sup>2</sup> The village officials hereinafter set forth shall be appointed by the Village President, subject to confirmation by a majority vote of the 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 W.S.A. s. 17.13.

- (1) Clerk-Treasurer.
- (2) Superintendent of Public Works.
- (3) Village Attorney.
- (4) Building Inspector.

B. The Village President shall not vote on the confirmation of such appointments, except in case of a tie.

## **§ 44-3. Village Clerk-Treasurer.**

A. Consolidated offices. Pursuant to W.S.A. ss. 61.195, 61.197 and 66.01, the Village of Albany hereby elects not to be governed by those portions of W.S.A. ss. 61.19, 61.23 and 61.25(2) which relate to the selection and tenure of the Clerk and Treasurer and which are in conflict with this section.

B. Appointment. The Office of Village Clerk-Treasurer shall be filled by appointment in the manner of other appointed officials as provided in § 44-2.

C. Duties. The Village Clerk-Treasurer shall perform the statutory duties of Village Clerk and Treasurer and such other duties as required by the Village Board. (Charter Ordinance)

## **§ 44-4. Deputy Clerk-Treasurer.**

The Clerk-Treasurer may appoint a Deputy Clerk-Treasurer(s), subject to confirmation by a majority of all the members of the Village Board. The Deputy Clerk-Treasurer(s) shall have an indefinite term of office. The Deputy Clerk-Treasurer(s) shall act under the Village Clerk-Treasurer's direction and, during the temporary absence or disability of the Village Clerk-Treasurer or during a vacancy in such office, shall perform the duties of Village Clerk-Treasurer. The acts of the Deputy(s) shall be covered by official bond as the Village Board shall direct. (Charter Ordinance)

State Law Reference: W.S.A. s. 61.261.

## **§ 44-5. Village Attorney.**

A. Appointment. The Village Attorney is an appointed position. The Village Attorney shall be appointed pursuant to § 44-2, except the Village Attorney shall serve at the pleasure of the Board.

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<sup>2</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Duties. The Village Attorney shall have the following duties:

(1) The Village Attorney shall conduct all of the legal business in which the village is interested.

(2) He shall, when requested by village officers, give written legal opinions, which shall be filed with the village.

(3) He shall draft ordinances, bonds and other instruments as may be required by village officers.

(4) He may appoint an assistant, who shall have power to perform his duties and for whose acts he shall be responsible to the village. Such assistant shall receive no compensation from the village, unless previously provided by ordinance.

(5) The Village Board may employ and compensate special counsel to assist in or take charge of any matter in which the village is interested.

(6) The Village Attorney shall perform such other duties as provided by state law and as designated by the Village Board.

#### **§ 44-6. Chief of Police.<sup>3</sup>**

A. Appointment.

(1) The Chief of Police shall be appointed by a majority vote of the members of the Village Board for an indefinite term, subject to removal by a two-thirds vote of the members of the Board, pursuant to the procedures established in W.S.A. s. 61.65(1)(am). The Chief shall exercise the powers and duties of Village Marshals and village constables and any other powers and duties prescribed by the Village Board, village ordinances or the Wisconsin Statutes. Upon a permanent vacancy, an officer designated by the Board shall temporarily replace the Chief until the vacancy is filled by the Village Board.

(2) The compensation to be paid the Chief of Police for his services, the hours of active duty, rest days, vacation periods and other involvement of his employment shall be such as may be determined by the Village Board from time to time. In the event of vacation or temporary disability, the Chief of Police shall appoint an officer in charge to act in the Chief's absence.

B. General duties.

(1) The Chief of Police shall have command of the Police Department. He shall have general administration and control of the Department and shall be responsible for the Department's government, efficiency and general good conduct. He shall perform all duties prescribed to him by the laws of the state and the ordinances of the village and shall obey all lawful written orders of the Village Board or appropriate Committee thereof.

(2) The Chief of Police shall cause the public peace to be preserved and may arrest and with reasonable diligence take before the proper court every person found in the village engaged in any disturbance of the peace or violating any law of the state or ordinance of the village. The Chief shall cooperate with other law enforcement officers in the arrest or

<sup>3</sup>Editor's Note: See also Ch. 50, Police Department.

apprehension of persons charged with crime. He shall see that all laws and ordinances of the village and state are enforced. Whenever any violation thereof shall come to his knowledge, he shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender or offenders. He shall exercise supervisory control over all the personnel of his Department and may adopt, subject to the approval of the Village Board, rules and regulations for the government, discipline, equipment and uniforms of the police officers. He shall be solely responsible for the care and condition of the equipment used by his Department. He shall keep an accurate and complete record of all complaints, arrests, traffic violations, convictions and dispositions of the Department.

#### **§ 44-7. Fire Chief.<sup>4</sup>**

A. Appointment. The Fire Chief shall assume office pursuant to the bylaws of the Fire Department for a one-year term of office, subject to confirmation by the Village Board. He shall be the Village Fire Inspector by virtue of his office.

B. Powers and duties of Chief.

(1) The Chief shall have general supervision of the Department, subject to this chapter and the bylaws of the Department, and shall be responsible for the personnel and general efficiency of the Department.

(2) It shall be the duty of the Chief or ranking officer of the Department to be present at all fires, to have complete command of and entire responsibility for all fire-fighting operations, to plan the control of the same, to direct the action or the company when they arrive at a fire, to observe that the Department does its duty, to grant leaves of absence at a fire when he may deem it proper and to see that the fire apparatus is kept in proper condition at all times.

(3) He 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 Department.

#### **§ 44-8. Weed Commissioner.**

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

State Law Reference: W.S.A. ss. 66.97 and 66.98.

#### **§ 44-9. Superintendent of Public Works.**

A. Appointment. The Superintendent of Public Works shall be appointed by the Village President, subject to confirmation by a majority vote of the Village Board, on the basis of merit, training, experience, administrative ability, efficiency and general qualifications and fitness for performing the duties of the position.

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<sup>4</sup>Editor's Note: See also Ch. 33, Fire Department.

B. Term. The Director of Public Works shall be appointed pursuant to § 44-2.

C. Duties and powers. The Director of Public Works shall have the following duties and powers:

(1) He shall have general charge and supervision of all public works in the village.

(2) He shall be responsible for the maintenance, repair and construction of streets, alleys, curbs and gutters, sidewalks, bridges, street signs, storm sewers, village buildings and structures and all machinery, equipment and property used in any activity under his control.

(3) He shall have charge of all public services, including garbage and refuse collection and disposal, snow and ice removal, street cleaning and flushing and mosquito and rodent control.

(4) He shall have general supervision of village water and sewer utilities.<sup>5</sup>

(5) He shall perform such other activities and duties as are imposed upon him from time to time by the Village Board, his job description or employment contract.

#### **§ 44-10. Assessor.**

A. Pursuant to W.S.A. ss. 61.195, 61.197 and 66.01, the village hereby elects not to be governed by those portions of W.S.A. ss. 61.19 and 61.23 which relate to the selection and tenure of the Village Assessor and which are in conflict with this section. (Charter Ordinance)

B. Hereafter, instead of being elected, the Assessor or assessing firm shall be appointed by the Village President, subject to confirmation by a majority vote of the members-elect of the Village Board. Said person so appointed to perform the duties of such office shall have an indefinite term and shall serve as determined by contract. A corporation or an independent contractor may be appointed as the Village Assessor. The corporation or independent contractor so appointed shall designate the person responsible for the assessment. The designee shall file the official oath under W.S.A. s. 19.01 and sign the affidavit of the Assessor attached to the assessment roll under W.S.A. s. 70.49. No person may be designated by any corporation or independent contractor unless he has been granted the appropriate certification under W.S.A. s. 73.09. For purposes of this subsection, "independent contractor" means a person who either is under contract to furnish appraisal and assessment services or is customarily engaged in an independently established trade, business or profession in which the services are offered to the general public.

State Law References: Public official's oaths and bonds, W.S.A. s. 19.01; Corporation as Assessor, W.S.A. ss. 61.197 and 61.27; Affidavit of Assessor, W.S.A. s. 70.49; Assessor certification, W.S.A. s. 73.02; and Assessors in cities, W.S.A. s. 70.05.<sup>6</sup>

#### **§ 44-11. Building Inspector.**

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<sup>5</sup>Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>6</sup> Editor's Note: Former § 44-11, Water and Sewer Superintendent, which immediately followed these State Law References, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

A. Appointment.

(1) The Building Inspector shall be appointed pursuant to § 44-2.

(2) The Building Inspector shall:

(a) Have proper state certification in areas of his responsibility.

(b) Possess such executive ability as is requisite for the performance of his duties and shall have a thorough knowledge of the standard materials and methods used in the installation of equipment in his area of responsibility.

(c) Be well versed in approved methods of construction for safety to persons and property, the statutes of the State of Wisconsin relating to work in his area of responsibility and any orders, rules and regulations issued by authority thereof.

(d) Have sufficient experience in the installation of equipment to enable him to understand and apply the appropriate codes adopted by the Village of Albany.

B. Authority to enter premises; appeals.

(1) In the discharge of his respective duties, each Inspector under this section or his authorized agent may enter any building, upon presentation of the proper credentials, during reasonable hours for the purpose of inspection and may require the production of any permit or license required hereunder. No person shall interfere with the Inspector or his authorized agent while in the performance of his duties; and any person so interfering shall be in violation of this section and subject to a penalty as provided by Chapter 1, General Provisions, § 1-19.

(2) If consent to entry to personal or real properties which are not public buildings or to portions of public buildings which are not open to the public for inspection purposes has been denied, the Inspector shall obtain a special inspection warrant under W.S.A. ss. 66.122 and 66.123.

(3) Any person feeling himself aggrieved by any order or ruling of an Inspector may, within 20 days thereafter, appeal from such order or ruling to the Board of Appeals, as established in Chapter 273, Zoning, such an appeal to be in writing.

C. Duties and authority. The Building Inspector shall have such duties as are prescribed in this section and Chapter 86, Building Construction, Chapter 122, Erosion Control, and Chapter 126, Fair Housing.

D. Stop work orders and revocations. The Building Inspector may order construction, installation, alteration or repair work stopped when such work is being done in violation of this Code. Work so stopped shall not be resumed, except with written permission of the Inspector, provided that if the stop-work order is an oral one, it shall be followed by a written order within a reasonable period of time.

**§ 44-12. Health Officer.**

A. Selection. The Village President shall annually appoint a Health Officer, subject to confirmation by the Village Board. The Health Officer's term shall be for a one-year period and

shall commence on the first day of May succeeding his appointment. Such Health Officer shall be a physician or, in lieu thereof, a person with training and experience in public health administration which shall meet training and experience requirements established by the State Department of Health and Family Services. If the Health Officer is not a physician, the Board of Health shall arrange for and provide, in addition, such services of a physician as may be necessary on either a part-time or full-time basis and provide a reasonable compensation therefor. The village may also utilize Green County's Health Officer.<sup>7</sup>

B. Vacancy. If a vacancy in the position of Health Officer occurs, the Village President shall immediately fill the position.

C. Responsibilities.

(1) The Health Officer shall provide such additional rules and regulations as are necessary for the preservation of health, to prevent the spread of communicable diseases and to cause the removal of all objects detrimental to health and to enforce the health laws. All proposed rules and regulations shall be reported to the Village Board by the Health Officer, and if the Board approves the same by a vote of a majority of its members, they shall have the force and effect of ordinances, including penalty for violation.

(2) The Health Officer shall from time to time recommend to the Village Board such sanitary measures, to be executed by the village as seem necessary, and shall discharge such other duties as may be imposed upon the Board by ordinance or resolution.

State Law Reference: W.S.A. ch. 251; HSS 139.05, Wis. Adm. Code.<sup>8</sup>

#### **§ 44-13. Eligibility for office.**

A. No person shall be elected by the people to a village office who is not, at the time of his election, a citizen of the United States and of this state and an elector of the Village, and in case of a ward office, of the ward, and actually residing therein.

B. An appointee by the Village President, requiring to be confirmed by the Village Board, who shall be rejected by the Board shall be ineligible for appointment to the same office for one year thereafter.

State Law Reference: W.S.A. s. 61.19.<sup>9</sup>

#### **§ 44-14. Oaths of office.**

A. Oath of office. Every officer of the village, including members of village boards and commissions, shall, before entering upon his duties and within five days of his 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 his official oath within 10 days after his election and file it with the Green County Clerk of Circuit Court prior to acting as Judge. Any person re-elected or reappointed to the same office shall take and file an official oath for each term of service.

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<sup>7</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>8</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>9</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Form; procedure. The form, filing and general procedure for the taking of oaths shall be governed by Ch. 19, Subch. I, Wis. Stats.<sup>10</sup>

**§ 44-15. Vacancies.**

A. How occurring. Except as provided in Subsection C below, vacancies in elective and appointive positions occur as provided in W.S.A. ss. 17.03 and 17.035.

B. How filled. Vacancies in elective and appointive offices shall be filled as provided in W.S.A. s. 17.24.<sup>11</sup>

C. Temporary incapacitation. If any officer shall be absent or temporarily incapacitated from any cause, the Board may appoint some person to discharge his duties until he returns or until such disability is removed.

State Law Reference: W.S.A. s. 61.23.

**§ 44-16. Removal from office.<sup>12</sup>**

A. Elected officials. Elected officials may be removed by the Village Board as provided in W.S.A. ss. 17.13(2) and 17.16.

B. Appointed officials. Appointed officials may be removed as provided in W.S.A. ss. 17.13(1) and 17.16.

Annotation: 62 Atty. Gen. Op. 97.

**§ 44-17. Custody of official property.**

Village officers must observe the standards of care imposed by W.S.A. s. 19.21 with respect to the care and custody of official property.

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<sup>10</sup>Editor's Note: See W.S.A. ss. 19.01 through 19.12.

<sup>11</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>12</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).