

CHAPTER 1

GENERAL PROVISIONS

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1.01 ELECTED OFFICIALS.

(A) **Enumerated.** The elected officials of the Village shall be the Village President, six (6) Trustees, and the Municipal Judge.

(B) **Terms.** The following officials shall be elected in the manner and for the term indicated:

<u>OFFICIAL</u>	<u>HOW ELECTED</u>	<u>TERM</u>
President	Biannually, odd numbered years	2 yrs.
Three Trustees	Biannually, odd numbered years	2 yrs.
Three Trustees	Biannually, even numbered years	2 yrs.
Municipal Judge	Biannually, odd numbered years	2 yrs.

1.02 APPOINTED OFFICIALS.

Except as appointments are provided for in 1.14 (Plan Commission), 1.16 (Board of Review), 5.015 (Fire Commission) and 1.17 (Board of Appeals), officials shall be appointed by the President and confirmed by the Village Board in the manner and for the term indicated:

<u>OFFICIAL</u>	<u>HOW APPOINTED</u>	<u>TERM</u>
Village Clerk/Treasurer	Village Board	Not to exceed 3 years
Building Inspector	Village Board	Indefinite
Deputy Emergency Government Director	Village Board	Indefinite
Attorney	Village Board	Indefinite
Administrator	Village Board	Indefinite
Assessor	Village Board	Per §60.307, Wis. Stats.
Auditor	Village Board	Indefinite
All other employees	Village Board	Indefinite

1.03 OATHS AND BONDS.

Elected and appointed officials shall take and file the official oath within five (5) days after notice of their election or appointment as provided in §61.21, Wis. Stats., and if required, shall execute and file the official bond pursuant to §61.22, Wis. Stats.

1.04 VACANCIES.

(A) **How Occurring.** Vacancies in elective and appointive positions are caused as provided in §17.03 and §17.035, Wis. Stats.

(B) **How Filled.** Vacancies in elective and appointive offices shall be filled as provided in §17.24 and §61.23, Wis Stats.

1.05 SALARIES.

The salaries of appointed officials, including members of Boards and Commissions created by Ordinance, shall be as determined by resolution of the Village Board from time to time.

1.06 RECEIPT OF GIFTS AND GRATUITIES.

(A) **Restricted.** No Village employee or official shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he is not authorized to receive from any person who:

(1) Has or is seeking to obtain contractual or other business or financial relationships with the Village or Village Board; or

(2) Conducts operations or activities which are regulated by the Village or Village Board; or

(3) Has interests which may be substantially affected by the Village or Village Board.

(B) **Penalty.** The receipt of any gift, gratuity or other thing of value as denoted above is contrary to the public policy of the Village and is punishable under §25.04 of this Municipal Code, in addition to such other civil or criminal penalties as may be available.

1.07 ELECTRONIC VOTING SYSTEM.

(A) **Paper Ballots Obsolete.** The Village Board has from time to time taken under advisement a review of the former system of paper ballot voting by the electorate of the Village of Somers and finds that such system is obsolete and should be discontinued. After giving consideration to alternative methods the Board believes that an electronic voting system will better serve the electoral process for the voters of the Village of Somers.

(B) **Electronic Voting Established.** Commencing with the spring election of 1982, voting by electronic voting system is hereby established for the Village of Somers.

(C) **Wisconsin Statutes Adopted.** Chapter 5, Subsection III, Wis. Stats., entitled

"Electronic Voting Systems" (§5.76 through §5.95, Wis. Stats.) as may from time to time be amended relating to requirements for establishing and maintaining an electronic voting system is hereby adopted by reference in the same manner as set forth in full.

(D) **Exceptions.** The Village Board of the Village of Somers may vote to use paper ballots at an election if it determines that the election is expected to have a low turnout of voters and the election only affects residents of the Village of Somers. The Board may also vote to use paper ballots for an election when all other jurisdictions affected by the election do the same.

1.08 VILLAGE PRESIDENT AND TRUSTEES.

(A) **Election And Term.** See §1.01 of these Ordinances.

(B) **Duties And Powers.**

(1) **Village President.** The Village President shall have such duties as are enumerated in §61.24, Wis. Stats. In the event of the temporary unavailability of the Village President, or in the event a temporary or permanent vacancy exists in the office of the Village President, then and only for the duration of such unavailability or vacancy, the Trustee with the most seniority on the Village Board shall be authorized to sign all ordinances, resolutions, by-laws, orders, regulations, commissions, licenses, permits, drafts, checks and transfer orders adopted or authorized by the Village Board in the absence of the Village President.

(2) **As Village Board.** The Village President and Trustees shall constitute the Village Board and shall have such duties and powers as are enumerated in §61.32, Wis. Stats., and elsewhere in the State Statutes.

(C) **Authority.** The Village Board shall have all powers of the Village not specifically given to some other body or officer. Except as otherwise provided by law, the Village Board shall have the management and control of the Village property, finances, highways, streets, utilities and the public service and may act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public and may carry its powers into effect by license, regulations, borrowing, taxation, special assessment, appropriation, imposition of forfeitures and other necessary or convenient means. The Village Board may appoint such officials from time to time as may be deemed necessary for the benefit of the community. In addition, the Village Board shall have the powers enumerated in §61.34, Wis. Stats. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

(D) **Meetings.** The Village Board shall meet the second and fourth Tuesdays of each month unless changed by majority vote of the Village Board for a specific reason.

1.09 VILLAGE CLERK/TREASURER.

(A) **Combined Offices.** Pursuant to §66.0101, Wis. Stats., the offices of Village Clerk and Village Treasurer have been combined.

(B) **Appointed Position.** Pursuant to §66.0101, Wis. Stats., the combined office of Village Clerk/Treasurer is an appointed position.

(C) **General Duties.**

- (1) Keep current with changes in the County, State and Federal legislation and pending legislation regarding activities in the Clerk's office.
- (2) Advise the public as needed regarding information relative to the Clerk/Treasurer's office.
- (3) Notary Public for Village and citizens who need documents notarized.
- (4) In coordination with the President and Village Administrator, prepare the agenda for all meetings of the Village Board. Provide supporting material that may be required.
- (5) Administer Oaths of Office for employees and elected officials.
- (6) Serve as Secretary for the Board of Review. Prepare notices and meeting minutes, examine assessment rolls, supervise open book period, schedule appointments and accept objections filed by appellants.
- (7) Assist the Village Administrator in the maintenance of employee health and life insurance and Village property and liability insurance. Assist with handling claims for loss and damage. Assist in the maintenance of property and liability claims.
- (8) Maintain an efficient and effective filing system of all records, books, papers or property belonging to, filed, or deposited in the Village Clerk's office.
- (9) Assist the Village Administrator in the preparation of the annual Village budget.
- (10) Prepare and adhere to annual department budget for Clerk/Treasurer's office and elections.
- (11) Attend all department head, commission and committee meetings as requested.

(12) Perform such other and further duties as required by Village ordinance, State Statutes and as may be directed by the Village Administrator or Village Board.

(D) **Duties.** The Village Clerk/Treasurer shall perform those duties prescribed by §61.25 and §61.26, Wis. Stats., and such other duties as may be required by law or requested by the Village Board.

(1) The Village Clerk/Treasurer shall be charged with the enforcement of all ordinances relating to licenses unless other provision is made by the Village Board for enforcement.

(2) The payment of all personal property taxes, special assessments, all forfeitures or judgments resulting from conviction for violation of any Village ordinance, except for moving traffic violations, and all other judgments due and owing from any applicant to the Village of Somers at the time of the application for any license or permit provided for in these ordinances, and any of the same relating to the property or business previously licensed if the new license is granted consequent or conditionally upon the sale or transfer of the business or stock in trade or furnishings or equipment of the premises or of the ownership or control of the corporation is a condition precedent to the granting of such license or permit. If the personal property tax bill has not been issued, the Clerk/Treasurer shall require advance payment based on the previous year's mill rate multiplied by the current year valuation of the premises, property or business. No license or permit application shall be granted until the Clerk/Treasurer has certified on the application that all required payments have been made.

(3) Clerk of Village Board.

(a) Serve as Clerk of the Village Board, attend meetings of the Board and keep a full record of its proceedings.

(b) File all accounts approved by the Village Board or allowed at Village meetings and enter a statement of the accounts in the Village's record book.

(c) File with the Village Board claims approved by the Clerk, as required under §61.25, Wis. Stats.

(4) Maintain a finance book, which shall contain a complete record of the finances of the Village, showing the receipts, with the date, amount and source of each receipt; the disbursements, with the date, amount and object of each disbursement; and any other information relating to Village finances prescribed by the Village Board. The financial records the Village Clerk is expected to maintain are in addition to, not in lieu of, those the Village Treasurer is statutorily required

to maintain.

(5) Elections and appointments.

(a) Perform the duties required by Chapters 5 and 12, Wis. Stats., relating to elections.

(b) Transmit to the County Clerk, within 10 days after election or appointment and qualification of any Village Trustee or Assessor, a written notice stating the name and post office address of the elected or appointed officer. The Clerk/Treasurer shall promptly notify the County Clerk of any subsequent changes in such offices.

(c) Transmit to the Clerk of Circuit Court, immediately after the election or appointment of any Municipal Judge in the Village, a written notice stating the name of the Municipal Judge and the term for which elected or appointed. If the Judge was elected or appointed to fill a vacancy in the office, the Clerk/Treasurer shall include in the notice the name of the incumbent who vacated the office.

(6) Execute the conveyance of real property of the Village.

(7) Notices.

(a) Publish or post ordinances and resolutions as required under §60.80, Wis. Stats.

(b) Give notice of annual and special Village meetings as required under any statutory provision.

(8) Records.

(a) Comply with Subchapter II of Chapter 19, Wis. Stats., concerning any record of which the Clerk/Treasurer is if legal custodian.

(b) Demand and obtain the official books and papers of any Municipal Judge if the office becomes vacant and the Judge's successor is not elected or appointed and qualified, or if any Municipal Judge dies. The Village Clerk/Treasurer shall dispose of the books and papers as required by law.

(9) Subject to Section (D)(2), above, Issue any license or permit granted by the Village Board when presented with a receipt indicating that any required fee has been paid.

(10) Schools.

(a) Perform the Clerk's duties under Chapters 115 to 121, Wis. Stats., relating to public instruction.

(b) Within ten (10) days after the Clerk/Treasurer's appointment, report his or her name and post office address to the administrator of each cooperative educational service agency which contains any portion of the Village. The Clerk/Treasurer shall report to the administrator the name and post office address of each school district clerk within ten (10) days after the name and address is filed in the Clerk/Treasurer's office.

(c) Make and keep in the Clerk/Treasurer's office a map of the Village, showing the exact boundaries of school districts within the Village.

(d) Apportion, as provided by law, tax revenues collected by the Village for schools.

(11) Perform the duties specified in Chapters 82 to 86, Wis. Stats., relating to highways, bridges and drains.

(12) Notify the Clerk of the county in which the Village is located, by March 15, of the proportion of property tax revenue, and the credits under §79.10, Wis. Stats., that is to be disbursed by the County Clerk to each taxing jurisdiction located in the Village.

(13) Perform all other duties required by law, ordinance or lawful direction of the Village meeting or Village Board.

(14) Receive and disburse Village money.

(a) Receive and take charge of all money belonging to the Village, or which is required by law to be paid into the Village, treasury, and disburse the money under §66.0607, Wis. Stats.

(b) Keep an itemized account of all moneys received and disbursed, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid. The Clerk/Treasurer shall issue numbered receipts for all funds received. At the request of the Village Board, the Clerk/Treasurer shall present the account books, and any supporting documents requested, to the Board.

(15) Deposit as soon as practicable funds of the Village in the name of the Village in the public depository designated by the Village Board. Failure to comply

with this subsection is grounds for removal from office.

(16) Comply with Subchapter II of Chapter 19, Wis. Stats., concerning records of which the Clerk/Treasurer is legal custodian.

(17) Perform all of the duties relating to taxation required of the Village Treasurer under Chapters 70 to 79, Wis. Stats.

(18) Preliminary settlement of schools taxes.

(a) Make partial apportionment of levies by school districts and vocational, technical and adult education districts out of any funds available to the Village Clerk/Treasurer prior to the tax apportionment provided by §74.23 and §74.25, Wis. Stats., within five (5) days after the filing of a written request by the district board. The Village Board may not deny such a request. The district board may not receive more than one (1) payment under this subsection during the month.

(b) On or before January 15 and February 15 and any other date specified by the Village Board, make payment to the appropriate school district, and to the appropriate vocational, technical and adult education district treasurer, if the district has not received a payment under Subsection (a) above during that month. The payment shall be the proportion of the school district's or vocational, technical and adult education district's levy that the general property taxes collected in the Village, except collections for state trust fund loans, state tax and state special charges, up to the last day of the preceding month, bear to the total general property tax levy in the Village for all purposes, except levies for state trust fund loans, state tax and state special charges. The Village Clerk/Treasurer may make the payments required under this subsection without authorization by the Village Board.

(c) On or before January 15 and any other date specified by the Village Board, pay under §74.12, Wis. Stats., to the appropriate school district treasurer and vocational, technical and adult education district treasurer the proportion of the district's levy that the general property taxes collected in the Village, except collections for state trust fund loans, state tax and state special charges, up to the last date of the preceding month, bear to the total general property tax levy in the Village for all purposes, except levies for state trust fund loans, state tax and state special charges.

1.10 MUNICIPAL JUDGE AND JOINT MUNICIPAL COURT.

(A) **Municipal Judge.**

(1) **Office created.** Pursuant to Chapter 755, Wis. Stats., there is created the office of Municipal Judge for the Village of Somers and Town of Somers.

(2) **Salary.** The Municipal Judge shall receive a salary as determined from time to time by resolution of the Village Board and Town Board, which shall be in lieu of fees and costs. No salary shall be paid to the Judge for any time during his term for which he has not executed and filed his official bond and oath as required by paragraph (3) of this subsection.

(3) **Bond; oath.** The Municipal Judge shall execute and file with the Clerk of Courts for Kenosha County the oath prescribed by §757.02, Wis. Stats., and a bond in the penal sum of One Thousand (\$1,000.00) Dollars. The Municipal Judge shall not be qualified to act until a certified copy of the oath is filed with the office of the State Administrator of Courts as required by §755.03, Wis. Stats.

(4) **Jurisdiction.** The Municipal Judge shall have jurisdiction as provided by law and the Wisconsin Statutes, and exclusive jurisdiction of violations of Village of Somers Ordinances.

(B) **Municipal Court.**

(1) **Court established.** The Joint Municipal Court for the Village of Somers and Town of Somers is established pursuant to §755.01, Chapter 755 and §66.0301, Wis. Stats.

(2) **Hours.** The Municipal Court shall be open as determined by order of the Municipal Judge.

(3) **Location.** The Municipal Judge shall keep his office and hold court in the Somers Village/Town Hall.

(4) **Procedure.** The procedure in Municipal Court shall be as provided by this section and state law including, without limitation because of enumeration, Chapter 755, Chapter 800 and §23.66 to §23.99 and §345.20 to §345.53, Wis. Stats.

(a) **Collection and return of forfeitures.** The Municipal Judge shall collect all forfeitures, penalty assessments, fees and taxable costs in any action or proceeding before him and shall pay over such monies to the appropriate Village or Town Clerk/Treasurer within seven (7) days of collection. At such time the Municipal Judge shall also report to the Village or Town Clerk/Treasurer the title, nature of offenses and total amount of judgements imposed in actions and proceedings in which such

monies were collected.

(b) **Contempt of court.** The Municipal Judge, after affording an opportunity to the person accused to be heard in defense, may punish for contempt of Municipal Court persons guilty of either of the following acts and no other:

(i) Disorderly, contemptuous and insolent behavior toward the Judge while engaged in any judicial proceeding or other conduct which tends to interrupt the proceeding or to impair the respect due the Judge's authority.

(ii) Resistance of or disobedience to any lawful order or process made or issued by the Judge.

The Municipal Judge may, upon finding any person guilty of contempt, order such person to forfeit not more than Fifty (\$50.00) Dollars plus such penalty assessment as may be authorized by statute from time to time. Upon non-payment of the forfeiture and penalty the person found guilty of contempt may be sentenced to the county jail not to exceed seven (7) days.

(c) **Stipulations and deposits in municipal court.**

(i) **Deposit schedule to be established.** The Municipal Judge shall establish and submit to the Village Board for approval in accordance with §800.03(3), Wis. Stats., a schedule of deposits for violation of Town and Village Ordinances, Resolutions and By-Laws except traffic regulations which are governed by §345.26, Wis. Stats., and boating violations governed by §23.66, Wis. Stats.

(ii) **Stipulation and deposit in lieu of court appearance.** Persons cited for violations of Village or Town Ordinances, Resolutions, or By-Laws for which a deposit has been established under this subsection, shall be permitted to make a stipulation of no contest and a deposit in lieu of court appearance as provided in §800.03, §800.04 and §800.09, Wis. Stats.

(iii) **Traffic deposits.** The deposit schedule established by the Wisconsin Judicial Conference and the procedures set forth in Chapter 345, Wis. Stats., shall apply to stipulations and deposits for violation of traffic regulations enacted in accordance with §345.26, Wis. Stats.

(iv) **When not permitted.** Stipulations and deposits shall not be permitted in cases of contempt under sub. (B)(4)(b) of this ordinance.

1.105 MUNICIPAL COURT CITATIONS.

(A) **Authority.** The Village Board of the Village of Somers, Kenosha, County, Wisconsin, has the specific authority under §66.0113, Wis. Stats., to adopt this ordinance.

(B) **Coverage.**

(1) Except as provided in subsections (2), (3) and (4), the form for citations to be issued in the Village of Somers by the Village Board, or its designees, for violations of Village of Somers ordinances shall be as provided in this subsection and shall include all of the following:

- (a) The name and address of the alleged violator.
- (b) The factual allegations describing the alleged violation.
- (c) The time and place of the alleged violation.
- (d) The number of the ordinance violated.
- (e) A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so.
- (f) The time at which the alleged violator may appear in court.

(2) The Village Board requires that in traffic regulation violation actions, except for parking regulation violations, the uniform traffic citation specified in §345.11, Wis. Stats., shall be used by the Village of Somers in lieu of the citation form described in subsection (1).

(3) The Village Board requires that in actions for violations of Village of Somers ordinances enacted in accordance with § 23.33 (11) (am) or 30.77, Wis. Stats., the citation form specified in §23.54, Wis. Stats., shall be used in lieu of the citation form described in subsection B.

(4) If the action for a violation of a municipal ordinance is to be in municipal court, the citation used shall be in compliance with §800.02(2), Wis. Stats. The service of the citations in municipal court shall conform with §800.01, Wis. Stats. The officers authorized to issue citations for municipal court actions are: Village Administrator, or his or her designee, Village Public Works Superintendent, Village

Attorney, and Village Building Inspector(s). The citation for any violation to be heard in municipal court shall contain substantially all of the following information:

- (a) The name, address, and date of birth of the defendant.
- (b) The name and department of the issuing officer.
- (c) The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the ordinance, resolution, or bylaw violated, and a designation of the violation in language that can be readily understood.
- (d) A date, time, and place for the court appearance, and a notice to appear.
- (e) Provisions for the amount of a deposit and stipulation in lieu of a court appearance, if applicable.
- (f) Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.
- (g) Notice that, if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture, penalty assessment, jail assessment, and crime laboratories and drug law enforcement assessment, any applicable consumer protection assessment, and any applicable domestic abuse assessment plus costs, including the fee prescribed in §814.65(1), Wis. Stats., not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.
- (h) Notice that if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the defendant, the court may summon the defendant into court to determine if restitution shall be ordered under §800.093, Wis. Stats.
- (i) Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.
- (j) Any other pertinent information.

(C) **Issuance and Service of Citation.**

(1) Village of Somers citations may be issued by the Village Board of the Village of Somers, or the Village Board of the Village of Somers may designate certain Village of Somers, Kenosha County, or other municipal officials, with their written approval, to issue such citations.

(2) Village of Somers citations, in addition, may specifically be issued by any of the following: Village Attorney, Village Administrator, Village Public Works Superintendent or Village Building Inspector(s). This official may also designate a person to issue such Ordinances for the Village of Somers and this official may revoke this authority to issue anytime.

(D) **Relationship to Other Laws.** The adoption and authorization for use of a citation under this ordinance does not preclude the Village Board of the Village of Somers from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this ordinance does not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter does not preclude the issuance of a citation under this ordinance.

(E) **Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

1.11 BUILDING INSPECTOR.

The former positions of Building, Electrical and Plumbing Inspector shall be incorporated into one (1) position.

(A) The Inspector shall enforce all provisions of this Code relating to building, electrical and plumbing construction.

(B) The Inspector may serve notices, deliver certificates of occupancy, cause to be issued "Stop and Desist" orders, and such other matters as shall fall within his enforcement duties under this Municipal Code.

(C) He shall keep a permanent record of all transactions.

1.12 MUNICIPAL DEPUTY EMERGENCY GOVERNMENT DIRECTOR.

The Village Board shall appoint a Municipal Deputy Emergency Government Director who shall be a resident of the Village and shall assist the County Emergency Government Director in the

administration of emergency government.

- (A) He shall direct the Village emergency government organization.
- (B) He shall perform such other duties as specified in §6.06 of this Municipal Code.

1.13 FIRE CHIEF.

The Fire Chief shall be appointed by the members of the Fire Commission and shall have the general supervision of the Fire Department and Rescue Squad. He shall be responsible for the personnel and general efficiency of the Department and Squad.

1.14 VILLAGE PLAN COMMISSION.

(A) **Creation.** Pursuant to the provisions of §62.23, Wis. Stats., by virtue of §61.35, Wis. Stats., there is hereby created in and for the Village of Somers a Plan Commission to function in accordance with the provisions of §62.23, Wis. Stats..

(B) **Membership.** The composition of and appointments to the Plan Commission made prior to the date of adoption of this ordinance shall be superseded by the terms specified hereafter. The Plan Commission shall be composed of seven (7) members, as follows:

(1) The Village President who shall serve as Village Plan Commission Chairperson.

(2) Six (6) citizen members who shall be electors in the Village who shall hold four (4) year terms and are appointed by the Village President, at least three (3) of whom do not hold elected Village public positions, and who are persons of integrity and competence having knowledge and experience of planning related matters. Two (2) of the six (6) "citizen" members shall be appointed for three (3) years ending on April 30, 2018; two (2) members shall be appointed for two (2) years ending on April 30, 2017; two (2) members shall be appointed for one (1) year ending on April 30, 2016. Thereafter, all members shall be appointed to three (3) years terms.

(3) The seven (7) members of the Plan Commission shall, each year at its first meeting in May, elect a Vice Chairperson who shall preside in the absence of the Chairperson. The Village Clerk/Treasurer or his or her designee shall act as Secretary who shall keep minutes of Plan Commission meetings.

(4) The Plan Commission shall hold regular meetings in the Village Hall at 6:30 p.m. on the Monday preceding the 2nd Tuesday of each calendar month unless there is no business to conduct; and the Chairperson may call a special

meeting of the Plan Commission with at least four (4) days notice prior to convening such meeting; and four (4) members present shall constitute a quorum of the Plan Commission, which is required in order to hold any Plan Commission meeting.

(5) The Village Board, at its discretion, may appoint the full time Village Engineer to replace a citizen appointee and may also appoint the full time Building Inspector as an eighth non-voting member of the Plan Commission.

(6) All appointed Plan Commission members may be reappointed to membership following the completion of their initial appointment and all vacancies on the Plan Commission shall be filled as soon as possible by action of the Village Board.

(7) All citizen members of the Plan Commission shall take the official oath of appointment set forth in §19.01, Wis. Stats., and such members shall be compensated for their attendance as directed by the Village Board.

(8) An alternate member may be appointed to the Plan Commission by the Village President, subject to confirmation by the Village Board, for a four (4) year term. The alternate member shall act only when a regular member is absent or withdraws, having a conflict of interest. A Commission member who shall have a conflict of interest shall not be counted in determining a quorum and shall not participate as a Commission member in the hearing or vote concerning the determination. The alternate member shall be compensated for meeting attendance whether or not he or she is a voting member.

(C) **Operations.** The Plan Commission shall operate and conduct business as prescribed in §62.23, Wis. Stats., more specifically:

(1) The Plan Commission shall keep a written summarized record of its proceedings, including all actions which shall require a majority of the membership present to be an affirmative vote.

(2) The Village Board may, at its discretion, extend powers to the Plan Commission such as the conduct of all public hearings concerning land use and zoning matters.

1.15 UTILITY DISTRICTS.

The Village Board shall manage and act as commissioners of all utility, sanitary sewer or stormwater management districts created under Chapters 60, 61 or 66, Wis. Stats.

1.16 BOARD OF REVIEW.

(A) **Composition of the Board of Review.** The Board of Review for the Village of Somers shall consist of the Village President and Trustees. A Board member who shall have a conflict of interest shall not be counted in determining a quorum and shall not participate as a Board member in the hearing, or vote concerning the determination.

(B) **Meetings.** All meetings of the Board of Review shall be publicly held in accordance with §70.47, Wis. Stats. except that the hours of the Board of Review meetings shall be from 6:00 o'clock p.m. to 8:00 o'clock p.m., or such longer hours as the Board may designate from time to time, on such dates as may be designated by the Board, beginning with the first meeting at any time during the 30-day period beginning on the second Monday of May.

(C) **Officers.** The Village President shall be the Chairperson of the Board of Review. The Village Clerk shall be the Clerk for the Board and shall keep accurate record of all proceedings, and shall give necessary notices as required by law. The Clerk is not a voting member of the Board.

(D) **Procedures.** Procedures set forth in §70.47, Wis. Stats., shall govern procedures of the Board of Review.

(E) **Notice of Meeting.** The first meeting of the Board of Review shall be noticed by publication of the date and time of such meeting in the Kenosha News and by posting of such notice in not less than three (3) public places and at the Village Hall, at least fifteen (15) days prior to such meeting. If an adjournment is made of a meeting for more than one (1) day, a written notice shall be posted on the outer door of the place of the meeting and in at least three (3) public places in the Village, stating to what time the meeting is adjourned.

(F) **Objections to Valuations.** All objections to the amount of the valuation of real or personal property must be made in writing on forms which are available from the Village Clerk and must be filed with the Clerk prior to close of public hearings by the Board.

(G) **Confidentiality of Information.** Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to §70.47(7)(af), Wis. Stats., or any successor statute thereto, then, such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under §70.47(7)(af), Wis. Stats., unless a court determines that it is inaccurate, is, per §70.47(7)(af), Wis. Stats., not subject to the right of inspection and copying under §19.35(1), Wis. Stats.

1.17 BOARD OF APPEALS.

(A) **Board of Appeals Established.** There is hereby established a Board of Appeals for the Village of Somers for the purpose of hearing and deciding appeals and applications for variances from the provisions of the Village land use ordinances which are in harmony with the purpose and intent of that ordinance.

(B) **Board Membership And Organization.**

(1) The Board of Appeals shall consist of five (5) members and two (2) alternates appointed by the Village President and confirmed by the Village Board.

(2) Terms for Board members shall be for a period of three (3) years, except that of those first appointed, one (1) shall serve for one (1) year, two (2) for two (2) years and two (2) for three (3) years. Terms for the alternate members shall be for a period of three (3) years, except that of those first appointed, one (1) shall serve for two (2) years and one (1) shall serve for three (3) years. (The term of the initial members of the Board and alternates shall be measured from June 1, 2015 without respect to when they are appointed and assume their duties.) Annually, the Village President shall designate one (1) of the alternates as first alternate and the other as second alternate.

(3) Members of the Board of Appeals shall be eligible for such position only if they reside within the Village. In making appointments to the Board of Appeals, the Village President and the Village Board shall attempt to appoint individuals having a background in land use planning, geography, urban affairs, or such other prior experience in related areas whenever feasible. Prior membership on the Board of Appeals or Planning Commission shall constitute prior experience. Attempts should be made to insure that individuals appointed to the Board of Appeals have no conflict of interest with said appointment.

(4) The Village President shall designate one (1) of the members chairman.

(5) Office room shall be provided by the Village Board and the actual and necessary expenses incurred by the Board of Appeals in the performance of its duties shall be paid and allowed as in cases of other claims against the Village. The Village Board may likewise compensate the members of said Board and such assistants as may be authorized by said Village Board. Vacancies shall be filled for the unexpired term of any member whose seat becomes vacant in the same manner as appointments for a full term.

(6) Official oaths shall be taken by all members in accordance with §19.01, Wis. Stats., within ten (10) days of receiving notice of their appointments.

(C) **Rules, Minutes And Subpoena Powers.**

(1) The Board of Appeals may adopt rules, not in conflict with either state law

or Village ordinances, as necessary to carry into effect the regulations of the Village Board. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public and tape recorded. The Board 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 examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(2) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant in any matter upon which it is required to pass under the Village ordinance, or to effect any variation in the Village ordinance.

(3) Minutes of the proceedings and a taped record of all actions shall be kept by the Board, showing the vote of each member upon each question, the reasons for the Board's determination, and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record unless a closed session of the Board is permitted under §19.85, Wis. Stats. Records shall not be destroyed except pursuant to law. Where necessary, conclusions and orders of the Board may be filed with the Register of Deeds Office.

(D) **Jurisdiction and Powers of the Board of Appeals.**

(1) The Board of Appeals shall have the following powers:

(a) To hear and decide appeals as may be authorized by §62.23(7)(e)7, Wis. Stats. or the Village land use ordinances.

(b) To hear and to authorize upon appeal in specific cases such variance from the terms of the Village land use ordinances as will not be contrary to the public interest, or, when owing to special circumstances, a literal enforcement of the provisions of such ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

(c) To hear and decide applications for interpretations of the zoning regulations and the location of the boundaries of the zoning district, floodlands, and shorelands after the Plan Commission has made a review and recommendation. Floodland and shoreland boundaries shall be altered by the Board of Appeals only when the applicant presents evidence that clearly and conclusively establishes that the location as

shown on the zoning map is incorrect.

(d) To hear and grant applications for substitution of more or equally restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Office of Planning and Zoning Administration has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application and hearing.

(e) To hear and grant applications for temporary uses, in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses and the Building Inspector has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Appeals, and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of the Village ordinances shall be required.

(f) To hear and to decide applications or interpretations, upon appeal of the specific case, from Village ordinances pertaining to Automatic Fire Sprinklers. The appeal shall not be contrary to the public interest, or, when owing to special circumstances, a literal enforcement of the provisions will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

(g) To hear and to decide applications or interpretations, upon appeal of the specific case, from the Village of Somers Building Code. The appeal shall not be contrary to any other Town, County, State or agencies requirements, the public interest, or, when owing to special circumstances, a literal enforcement of the provisions will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

(2) No variance shall have the effect of permitting any use in a district that is prohibited in that district, nor shall a variance have the effect of a rezoning.

(3) The Board may reverse, affirm wholly or partly or modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made.

(4) The Board may request assistance from other Village officers, departments, commissions, and boards.

(5) The Chairman may administer oaths and compel the attendance of witnesses by subpoena.

(E) **Appeals and Applications for Variances.**

(1) Appeals to the Board of Appeals may be taken by any persons aggrieved, or by any officer, department, board or bureau of the Village affected by any order, requirement, decision or determination of an administrative officer or body in the enforcement of §62.23, Wis. Stats., the Village land use ordinances or any other ordinance adopted pursuant to §62.23, Wis. Stats. Such appeals shall be commenced by filing with the administrative officer or body and with the Board of Appeals a notice of appeal specifying the grounds thereof. Such notice of appeal shall be filed within thirty (30) days after the date of written notice of the decision or order. The administrative officer or body shall forthwith transfer to the Board all the papers constituting the record upon which the action appealed from was taken. In addition, such appeals and application shall include the following as deemed appropriate by the Board of Appeals:

(a) Name, addresses and phone numbers of the applicant, owner of the site, architect, professional engineer, contractor, and authorized agent if applicable.

(b) A description of the subject site by lot, block and recorded subdivisions or by meets and bounds; address of the subject site, tax parcel number, type of structure; existing or proposed use of the structure or site; the zoning district within which the subject site is located; classification of the subject site either being conforming or nonconforming in its use; and whether or not the property is located within a shoreland or floodplain area.

(c) A plat of survey and/or site plan layout consisting of a survey prepared by a land surveyor registered by the State of Wisconsin or other map drawn to scale showing all of the information required by the County of Kenosha zoning ordinance for a zoning permit. In addition, the plat of survey or site plan layout or map shall show the location, elevation and use of any abutting lands and the location and foundation elevations of structures within fifty (50) feet of the subject site; soil mapping unit lines; mean and historic high water lines and floodlands on or within fifty (50) feet of the subject premises, and existing and proposed landscaping.

(d) Additional information relative to those standards and guidelines which must be met prior to the issuance of the variance.

(e) A list of property owners whose property abuts the parcel(s) in question or who own property within three hundred (300) feet of such parcel(s) and their addresses.

(f) A filing in the amount of Three Hundred Fifty (\$350.00) Dollars,

from which a per diem allowance shall be paid to each member and/or alternate in attendance at the rate of Forty (\$40.00) Dollars per meeting.

(2) Any application for a variance under this ordinance shall be accompanied by a sworn statement by the owner of the subject property or the applicant for a variance for said property that said property and its use will be operated in accordance with the provisions of this ordinance.

(F) **Stays.** An appeal shall stay all proceedings and furtherance of the action appealed from unless the administrative official or body whose decision is appealed from shall certify to the Board of Appeals after the notice and appeal shall have been filed that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, notice shall be given to the appellant and proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a Court of Record, on application and notice to the administrative official and for good cause shown.

(G) **Hearing Procedures.** In hearing a petition requesting an appeal or allowance of a variance, the Board of Appeals shall call the petition. Upon the call of the petition, the petition shall be read by the Chairman of the Board and at the conclusion thereof, the chairman shall hear and receive any evidence or sworn testimony presented by the petitioner or his authorized agent or attorney. At the conclusion of the petitioner's presentation, the Chairman shall first ask for any public comments from those in support of the petition and secondly from those in opposition to the petition. Any relevant and material evidence or sworn testimony presented by interested individuals either in favor of or in opposition to the petition shall be received by the Chairman provided however that said evidence or sworn testimony is properly identifiable for the record. Lastly, the Chairman shall ask for a recommendation from the Village Building Inspector or other designated representation of the Village.

(H) **Continuances.** Upon receiving the recommendation of the Building Inspector, the Board may table the petition so as to allow the petitioner or any opponent to the Petition an opportunity to provide any further information deemed pertinent by the Board or so as to allow the Board members an opportunity to view the site or similar situations already in existence if a comparison is warranted in accordance with the guidelines set forth in Section (I) below or consider the conditions for allowing the appeal or variance.

(I) **Site Views.** En route to view a site as provided for in this ordinance, Board members traveling together or visiting the site at the same time shall refrain from discussing Board business. Furthermore, testimony shall not be received during such view nor shall any argument be heard. The Board may, however, gather information and ask questions provided that information, data, and questions and answers are recited into the record if that information will not be entered by testimony or exhibits.

(J) **Findings And Conclusions.** Upon having received all evidence and hearing all sworn testimony relating to the petition, the Board of Appeals shall review the site plan, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewage and water systems, the

proposed operation, the effects of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, and any other pertinent requirements deemed necessary by the Board when considering the standards set forth in this ordinance. Upon completion of said review, the Board Chairman shall entertain a motion that the Board either grant or deny the appeal or application for a variance based upon specific findings and conclusions which shall be part of the Board's written decision and minutes.

(K) **Standards And Guidelines.**

(1) In determining whether a variance is to be granted, the following standards and guidelines must be met. In making its decision, these standards and guidelines shall be addressed by the Board of Appeals.

(a) The existence of special conditions or exceptional circumstances on the land in question.

(b) The experiencing of unnecessary hardships or practical difficulties on the land in question either presently or in the future.

(c) That these hardships or difficulties are the result of the aforementioned special conditions existing on the land and are not self-inflicted.

(d) That the existence of these special conditions will restrict the use of the land if the Ordinance is applied literally so as to render the land useless.

(e) That the limitation on the use of the land does not apply generally to other properties in the district.

(f) That limiting the use of the property does not afford compensating gains to the public health, safety and welfare.

(g) That the variance(s) requested are the minimum variance(s) needed to alleviate difficulties or hardships.

(h) That the use of the parcel in question presently does conform to the ordinance.

(i) That granting the variance applied for will not affect the public health, safety, morals and welfare of the community and other properties in the area.

(2) Variances may be granted for example for reasons of topography, environmental protection or where permitted by state statute but in no event may

a variance be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction errors, economic reasons, self-created hardships, or where the property is presently a non-conforming use. Furthermore, variances may not be granted for the purpose of altering the sanitary requirements of the Village ordinances except for existing structures.

(3) The Board of Appeals in considering the propriety of granting a variance shall not consider the number of persons for or against the granting of a variance.

(4) Variances may be granted in the form of an area or distance variance, however, use variances shall be specifically prohibited under this Ordinance.

(L) **Conditions.** In order to insure that any variance so granted by the Board of Appeals is consistent with the spirit of the Village ordinances and recognizing that there could be fact situations where the spirit of the ordinances could be observed only if conditions were imposed upon the granting of the variance, the Board of Appeals is specifically empowered to grant a variance upon conditions such as, but not limited to, landscaping, type of construction, hours of operation, traffic patterns, parking requirements, yard sizes, time periods, deed restrictions, bonds, etc. and further provide that in the absence of said conditions being met, said variance shall be null and void.

(M) **Decisions.**

(1) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official or body appealed from, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the Village land use ordinances.

(2) The Board of Appeals shall decide all appeals and applications in compliance with the Wisconsin Open Meeting Law and within thirty (30) days after final hearing and shall transmit a signed copy of the Board's decision and order to the appellant or applicant and the administrative official or body whose decision was appealed along with the Board's Findings and Conclusions and a statement as to which members of the Board viewed the property in question and the date of such viewing.

(3) Variances granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

(N) **Order on Appeal.** In exercising the above-mentioned powers, the Board of Appeals may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal was taken.

(O) **Conflict of Interest.** Any member of the Board of Appeals having a conflict of interest in any matter coming before the board shall refrain from any voting or discussion either prior to, at, or after the matter has been heard by the Board.

(P) **Motion to Reconsider And Re-appeal.**

(1) Where an error in judgment or procedure resulted in granting an improper variance or in denying an appeal, a motion to reconsider made by a Board member or upon motion of any interested party, may be considered and the prior action of the Board rescinded if vested rights are not violated.

(2) A petition for a variance having been denied or a decision or order of an administrative official or body having been affirmed, a petition seeking a similar variance or relief shall not be entertained by the Board of Appeals until the expiration of a minimum of one (1) year.

(Q) **Appeal of Board Ruling or Order.** Any decision of the Board of Appeals may be appealed as provided in §62.23(7)(e)10, Wis. Stats.

(R) **Recording of Ruling or Order.** Any variance granted by the Board or by a court of law shall not be valid unless recorded by the applicant in the office of the Kenosha County Register of Deeds within five (5) days after the variance is granted and evidence of such filing is presented to the Village Building Inspector. Any recording fees shall be paid by the applicant. In addition, the Village Building Inspector shall keep a record and/or map of all such variances which shall be open to the public. Failure to comply with this provision shall render the variance null and void.

1.18 PARK COMMITTEE.

(A) **Creation.** The Village Board of the Village of Somers, by a supermajority vote of at least 4/5ths of its' members, hereby creates the Village of Somers Parks Committee. No abolition of this committee or modification of the authority of the committee shall be effective unless such abolition or modification shall occur after a vote of at least 4/5ths of the Village Board approving such action.

(B) **Composition of the Park Committee.** The Park Committee for the Village of Somers shall consist of seven (7) residents of the Village, none of whom shall occupy any elected Village public office. Members of the Park Committee shall be appointed by the Village President, with the approval of the Village Board, and shall hold office as members of said Committee for a term of three (3) years, commencing on the first day of July in the year in which the Committee member is appointed. The appointment shall be for a period of three (3) years or until successors are appointed. An alternate member may be appointed by the Village President, and confirmed by the Village Board, for a three (3) year term. The alternate member shall act only when a regular member is absent or withdraws, having a conflict of interest. A Committee member who shall have a conflict of interest shall not be counted in determining a quorum and shall not participate as a Committee member in any recommendation to the Village Board or a vote concerning the determination.

(C) **Initial Term of Office.** For the initial term of office commencing July 1, 2015, one (1) Committee member shall be for a one (1) year term, three (3) Committee members shall be for a two (2) year term and three (3) Committee members shall be for a three (3) year term. In addition, an alternate shall be appointed for a three (3) year term. Thereafter, each Committee member shall be appointed for a three (3) year term.

(D) **Meetings.** All meetings of the Park Committee shall be publicly held in accordance with §19.85, Wis. Stats. on such dates as may be designated by the Committee.

(E) **Compensation.** Members of the Park Committee shall be entitled to a per diem fee established by the Village Board and may be entitled to reimbursement for actual out-of-pocket expenses incurred by such members and approved by the Village Board.

(F) **Officers.** Members of the Park Committee shall elect a Chairperson at the first annual meeting of the Committee and annually thereafter. Members of the Committee shall elect a Clerk who shall keep an accurate record of all proceedings of the Committee and who shall provide an official copy to the Village Clerk/Treasurer.

(G) **Authority.** The Park Committee shall make recommendations to the Village Plan Commission and Village Board concerning issues relating to the acquisition, improvement and uses of park lands owned or sought to be acquired by the Village. It shall monitor and make recommendations to such bodies concerning the amount and use of Village Park Fund impact fees but the Park Committee shall have no independent authority to tax, make budgets, contract on behalf of the Village, or to authorize the expenditure of any funds other than the Village Park Committee Operational Fund, which shall be appropriated annually by and in an amount determined by the Village Board.

(H) **Notice of Meeting.** Meetings of the Park Committee shall be noticed by the Village Clerk/Treasurer giving the date and time of such meeting to the Kenosha News and by posting of such notice in not less than three (3) public places and at the Village Hall, at least five (5) days prior to such meeting.

1.19 ECONOMIC DEVELOPMENT COMMITTEE.

(A) **Creation.** The Village Board of the Village of Somers, by a majority vote of its members, hereby creates the Village of Somers Economic Development Committee.

(B) **Composition of Economic Development Committee.** The Economic Development Committee for the Village of Somers shall consist of no fewer than five (5) nor more than twelve (12) members. Members of the Economic Development Committee shall be appointed by the Village President, with the approval of the Village Board, and shall hold office at the pleasure of the Board. Members of the Village Board, the Village Administrator and other staff or consultants may act as ex officio members of the Committee and shall not be counted against the minimum or maximum number of

members of the Committee.

(C) **Meetings**. All meetings of the Village Economic Development Committee shall be publicly held in accordance with §19.85, Wis. Stats., on such dates as may be designated by the Committee.

(D) **Compensation**. Members of the Village Economic Development Committee shall serve without compensation.

(E) **Officers**. Members of the Village Economic Development Committee shall elect a Chairperson at the first meeting of the Committee and annually thereafter. Members of the Committee shall elect a Clerk who shall keep an accurate record of all proceedings of the Committee and who shall provide an official copy to the Village Clerk/Treasurer.

(F) **Authority**. The Village Economic Development Committee shall make recommendations to the Village Board concerning issues relating to the economic development of properties located within the Village, the attraction of jobs, industry and commercial development to the Village and related issues.

(G) **Notice of Meeting**. Meetings of the Village Economic Development Committee shall be noticed by the Village Clerk/Treasurer during the date and time of such meeting to the Kenosha News and by posting of such Notice in not less than three (3) public places and at the Village Hall, at least five (5) days prior to such meeting.

