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CHAPTER I

RULES FOR GOVERNMENT

1.01 Town Board Authorized to Exercise Village Powers

- (1) BE IT RESOLVED, by the Electors of the Town of Herman, Sheboygan County, Wisconsin, that there be and hereby is granted, conferred, and bestowed upon the Town Board of the Town of Herman, Sheboygan County, Wisconsin, the right, power, and privilege to exercise all powers relating to villages and conferred on Village Boards by Chapter 61 of the Wisconsin Statutes.
- (2) BE IT FURTHER RESOLVED that it is the intention of this resolution to authorize said Town Board of said Town of Herman to exercise powers of Village Boards as provided by Section 60.18, Subsection (12), of the Wisconsin Statutes.

This Ordinance passed by the Electors of the Town of Herman on the 7th day of April 1942.

1.02 Town Obligated to Pay County Taxes

- (1) The Town of Herman hereby obligates itself to pay, in case the Town Treasurer shall fail so to do, all State and County taxes charged on the tax rolls required by law to be paid by the Treasurer of the Town of Herman to the Treasurer of the County of Sheboygan.
- (2) This obligation shall be continued from year to year in full force and effect until such time repeal hereof is affected pursuant to the provisions of Section 70.67 (2).

This Ordinance passed by the Electors of the Town of Herman on the 5th day of April, 1949.

1.03 Town Clerk to Compute Taxes in A Single Column

- (1) The Town Clerk is hereby authorized to compute the real estate and personal property taxes in the assessment roll and tax roll in a single column for State, County, Town and High School tuition and transportation in conformity with Section 70.65 (2) of the Wisconsin Statutes.
- (2) The aggregated amount of State, County, Town and High School tuition and transportation taxes shall be carried in a single column on the tax receipt, and there shall be printed on said tax receipt the separate proportion or rate of taxes levied for State, County, Town and High School tuition and transportation taxes, pursuant to Section 74.08 (1) of the Wisconsin Statutes.

1.04 Election of Wards

- (1) The town shall be divided into 3 wards set forth as follows:

A. Ward No. 1, assigned to County Supervisory District 12, comprised of that portion of the Town of Herman within the boundary commencing at Willow Road east and County Road MM south, County Road M west, and County Road A North. Comprised of sections: 17, 18, 19, and 20.

B. Ward No. 2, assigned to County Supervisory District 12, comprised of that portion of the Town of Herman south of County Line Road, north of County Road MM, east of Willow Road, and west of Rangeline Road. Comprised of sections: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.

C. Ward No. 3, assigned to County Supervisory District 13, comprised of that portion of the Town of Herman, South of County Road MM and excluding that portion within the boundary commencing at Willow Road east and County Road MM south, County Road M west, and County Road A North, Comprised of sections: 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36.

- (2) The polling place for each ward shall be the Town Hall.

- (3) All said wards shall be combined for voting purposes and use common ballot boxes and ballots and separate returns shall not be maintained except for those elections where electors of one or more wards are ineligible to vote for any office or referendum for which other electors in the combined wards may vote, and in those circumstances separate ballot boxes, ballots, and separate returns shall be maintained.

CHAPTER 2

OFFICIALS, BOARDS, COMMISSIONS AND EMPLOYEES

2.01 Town Commissions

- (1) The Town Planning and Zoning Commission shall be constituted as described in Chapter 7.11 of this code.
- (2) The Board of Appeals shall be constituted as described in Chapter 7.9 of this code.

2.02 Town Constables

- (1) Statutory Authority – Pursuant to Wisconsin Statute 60.22(4) and 60.35, the town Board of the Town of Herman hereby establishes the jurisdiction and duties of the Town Constables of the Town of Herman.
- (2) Jurisdiction and Duties – The Town constable of the Town of Herman shall act on behalf of the Town Board as directed to:
 - A. See that Town orders and ordinances are obeyed.
 - B. See that peace and order are maintained in the Town.
 - C. Obtain necessary assistance, if available, in case of emergency, except as provided under Chapter 166 of the Wisconsin Statutes for emergency government.
 - D. The Town Constable shall have the authority to perform all other duties delegated to the Constable by the Town Board.
- (3) Non-exclusivity:
 - A. Other ordinance – Adoption of this ordinance does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
 - B. Other remedies – The jurisdiction and duties of the Town Constable as stated herein shall not preclude the Town Board or any other town officer from proceeding under any ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order.
- (4) Severability – If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.”

2.03 Town Treasurer

- (1) The treasurer of the town is exempted from giving the bond specified in s. 70.67 (2), Wis. stats.
- (2) The town hereby obligates itself to pay, in case the town treasurer fails to do so, all state and county taxes that the treasurer is required to pay to the county treasurer.

CHAPTER 3

TOWN ROADS

3.01 Ordinance for the Building of Roads and the Installation of Culverts

(1) PURPOSE. The purpose of this ordinance is to establish the regulations for the application, for dedication, and construction of town roads in the Town of Herman.

(2) APPLICATION. Application for the construction of roads in the town shall be made in writing to the Town Board and shall include a legal description of the proposed road. The Town Board shall investigate the application for compliance with all town, county and state standards, regulations and ordinances, to include any town subdivision, planning and zoning ordinances.

(3) RIGHT-OF-WAY.

- A. Right-of-way shall be provided and dedicated to the Town of Herman by deed without cost to the town.
- B. The Town Board shall determine the width of the right-of-way, but in no case shall the width be less than 66 feet.
- C. If said right-of-way consists of a dead-end road applicant shall grant an easement or dedicate, as the Town Board shall direct, a cul de sac or turn-around of the following minimum dimensions:
 - 1. Minimum inside radius 45 feet.
 - 2. Minimum outside radius 60 feet.
 - 3. Minimum right-of-way radius 84 feet.

(4) GRADING, CUTTING AND FILL. After approval of the proposed road by the Town Board, applicant shall cut, fill and grade the road to subgrade level with a minimum of 10 inches of compacted road gravel.

- A. Minimum shoulder width shall be 3 feet.
- B. All ditches to be excavated and approved culverts installed.
- C. All soft spots shall be excavated and filled with breaker run rock.
- D. Maximum grade of the road shall be as approved by the Town Board, but in no case greater than 10%.
- E. Any proposed road shall remain unpaved gravel for a minimum of one year after construction prior to bituminous paving. In the event the town is to assume responsibility for a road prior to bituminous paving an estimate shall be obtained and 1 ½ times the estimate shall be placed in escrow for the town's use for future paving.

(5) PAVING. Bituminous paving shall be completed prior to the town assuming responsibility for any road. All road paving shall meet the following minimum requirements:

- A. Pavement width shall be 18 feet.
- B. Pavement thickness shall be 2 mats, totaling 3 inches with a 3-inch crown.
- C. The town shall be notified both prior to and after paving so the Town Board and/or their designee can inspect the proposed roadway and paving.

(6) CULVERTS. All culverts are to be installed at the applicant's expense, and shall meet the following minimum requirements:

- A. All culverts shall be steel or "PDE" pipe.
- B. All culvert pipes shall be of a minimum diameter of 18 inches, but in all cases shall be large enough to accommodate anticipated flow.
- C. Culvert pipes constructed of "PVC" plastic are not permitted.

(7) DRAINAGE DITCHES. It shall be unlawful for any person or corporation to close or cause to be closed, obstruct or cause to obstruct any drainage ditch or to connect any drain with said ditch without the approval of the Town Board.

(8) PENALTY. Any person or corporation violating paragraph (6) or (7) of this ordinance shall, upon filing immediately to remove said obstruction or unapproved culvert pipe or open said ditch, pay the cost of repairing, removing, and opening, and shall be further subject to a fine pursuant to Section 9.04(1) of this code.

3.02 Obstruction to Vehicular Traffic

- (1) No person shall excavate, cut, or cause any obstruction to the passage of vehicular traffic on any road in the Town of Herman unless he shall first notify the Sheriff of Sheboygan County, the Town Constable and the Chief of the Howards Grove-Millersville, Ada and Franklin Fire Departments of the location, date and expected duration of said excavation or obstruction.
- (2) The penalty for violation of this Section shall be as provided in Section 9.04 (1) of this code.

3.03 Construction of Driveways and Installation of Culverts

- (1) PURPOSE. The purpose of this ordinance is to establish minimum requirements for the installation or modification of driveways, private drives, and private roads connecting to public roadways in the Town of Herman to ensure the safe ingress and egress of emergency response vehicles, and to insure proper drainage along public roadways.
- (2) DEFINITIONS:
 1. Driveway: A privately owned vehicular access roadway, running from a single parcel of land, and connecting with a public road through the public road right-of-way.
 2. Private Drive: A privately owned vehicular access roadway, running from two parcels of land, and connecting with a public road through the public road right-of-way.
 3. Private Road: A privately owned vehicular access roadway, running from three or more parcels of land, and connecting with a public road through the public road right-of-way.
 4. Field Access Drive: A privately owned access point used for agricultural purposes, or to access agricultural land.
 5. Public Roadway: All public ways and thoroughfares, including without limitation, town roads, county roads, and state roads.
- (3) DRIVEWAY, PRIVATE DRIVE, AND PRIVATE ROAD REQUIREMENTS: The following provisions apply to all Driveways, Private Drives, and Private Roads abutting public roadways in the Town of Herman. All work shall be performed without danger to or interference with traffic using the public roadway.
 - A. Unless otherwise stated, a minimum of a twelve (12) inch by twenty-four (24) foot long culvert shall be installed and maintained by the property owner under the proposed access to a public roadway and shall be approved beforehand by the Town of Herman or their designated representative. Fill shall be made over culverts so that the ends are free, and the ends shall be riprapped or sodded to prevent fill material from spilling into the ditch and clogging the culvert.
 - B. Entryways within fifty (50) feet of the centerline of any public roadway shall not exceed a five percent (5%) up or down slope. However, when existing property slopes exceed ten percent (10%) the Herman Town Board may allow the entryway slope to be increased to minimize grading damage to adjacent property, but in no case shall entryways exceed fifteen percent (15%), and entryways exceeding ten percent (10%) shall provide rounding at the intersection with the public roadway to prevent rear-end or mid-wheel dragging to vehicles entering or leaving the public roadway.
 - C. Driveways, private drives, and private roads shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the public highway required for effective traffic control or for street signs or signals. Driveways, private drives, and private roads shall be so located and constructed that vehicles approaching or using them shall have adequate sight distance along the public highway or private road as determined by the Zoning Administrator. Driveway approaches shall be at least twenty (20) feet apart and there shall be at least ten (10) feet from the edge of the driveway to the property line except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

- D. Unless otherwise documented, the public roadway right of way for town roads shall be assumed to be thirty-three (33) feet from the centerline of the road.
 - E. Public roadway surfaces, slopes, shoulders, ditches, and vegetation disturbed by construction shall be restored by the landowner.
 - F. All costs of installation and maintenance of culverts under driveways, private drives, and private roads, as well as any public roadway or right of way restoration shall be the sole responsibility of the property owner(s).
 - G. Drainage: Ditches along the right of way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway, private drive or private road shall be planned, constructed, and maintained in a manner that prevents diversion of surface water onto the public road and the lands of other persons. Side banks shall be graded to a slope of no more than one (1) foot of vertical rise in each two (2) feet of horizontal distance. Excluded from this grading requirement are driveways for which retaining walls and/or other erosion control measures are installed. Side banks shall be constructed using earthen materials.
 - H. Radius of Curves: Curves shall have an inside radius of no less than forty-eight (48) feet.
 - I. Any dead-end private drive or private road shall provide a turn-around at the closed end of the roadway. Turn-arounds can be "T-type" or "hammerhead," 100-foot diameter cul-de-sac or curved driveway.
 - J. Construction of Private Roads shall be completed prior to the Herman Town Board approval of any building permit.
- (4) DRIVEWAYS: All driveways shall require a roadbed of twelve (12) feet in width, with an overhead clearance of fifteen (15) feet for ingress and egress of emergency vehicles.
- (5) PRIVATE DRIVES:
- A. Must provide access to less than three (3) addressed lots.
 - B. Shall have a roadbed of twelve (12) feet in width with an overhead clearance of fifteen (15) feet.
 - C. Shall have a thirty (30) foot easement width, fifteen (15) feet from the centerline of the private drive in each direction.
 - D. Shall require any indicated structures, such as bridges, etc. Such structures shall have a minimum width of ten (10) feet and shall have a certified capacity of no less than 30 tons.
- (6) PRIVATE ROADS:
- A. Shall have a sixty-six (66) foot wide easement, thirty-three (33) feet from the centerline of the road.
 - B. No Private Drive shall be extended to a Private Road without an easement width of sixty-six (66) feet.
 - C. Shall require any indicated structures, such as bridges, etc. Such structures shall have a minimum width of ten (10) feet and shall have a certified capacity of no less than 30 tons.
 - D. Shall be graveled to a minimum width of twelve (12) feet with a minimum of four (4) inches of compacted gravel over an appropriate base with sufficient drainage.
 - E. All Private Roads serving three or more addresses shall have a recorded maintenance agreement acceptable to the Herman Town Board in place prior to the approval of any land subdivision.

- (7) **TRANSFER OF PRIVATE DRIVES OR PRIVATE ROADS TO THE TOWN OF HERMAN:** Prior to the transfer of a Private Drive or Private Road to the Town of Herman the roadway must meet all the requirements of a Town Road as described in Section 3.01 of the Town of Herman Code of Ordinances.
- (8) **PENALTIES/FORFEITURES:** If a driveway, private drive, or private road is constructed or modified in violation of the provisions of the Ordinance or creates a hazard that is not corrected within 30 days of notification, the owner(s) of the land through which the driveway, private drive, or private road passes shall pay a forfeiture as specified in Section 9.04(2) of the Code of Ordinances. Each day the violation continues to exist shall constitute a separate offense. A driveway, private drive, or private road that is constructed in violation of this Ordinance constitutes a public nuisance and may be enjoined.

3.04 Operation of All-Terrain Vehicles on Town Roads

(1) Authority

Usage of town roads is pursuant to Wis. Stats. 23.33(8)(b), adopted by reference, as modified by this Code of Ordinances.

(2) Conditions of Use

- (a) All town roads shall be open to use by ATV and UTV vehicles unless otherwise posted.
- (b) All county and state roadways with a posted vehicular speed of 35 mph or less will be open to ATV/UTV usage unless otherwise posted, as authorized by Wis. Stats. 23.33(11)(am)4.
- (c) All ATV/UTV operators shall observe posted speed limits but shall not exceed 45 mph on any town road.
- (d) No person under 18 years of age may operate or be a passenger on an ATV/UTV without wearing protective headgear of the type required under Wis. Stats. 347.485(1)(a), except as specifically exempted under Wis. Stats. 23.33(3g)(b,c and d).
- (e) All ATV/UTV operators under the age of 16 years old must be in direct verbal supervision of a parent or legal guardian when operating on a designated all-terrain vehicle route.
- (f) Operation of ATVs and UTVs on roadways designated as ATV/UTV routes are authorized only for the extreme right side of the roadway, on the paved surface (if the roadway is paved), except those left turns may be made from any part of the roadway that is safe given prevailing conditions.
- (g) Approved hand signals are required whenever the operator intends to change direction if the vehicle is not equipped with turn signals.
- (h) All ATV/UTV operators shall ride single file.
- (i) The operator of an ATV/UTV shall obey all traffic laws, local ordinances and DNR regulations.
- (j) The operator of an ATV/UTV shall display a lighted headlamp, tail lamp and working brake light on the vehicle while operating on municipal roads.
- (k) All ATVs and UTVs shall display a current government issued registration.
- (l) All roads must be signed in accordance with NR 64.12 and NR 64.12(7).
- (m) The Town of Herman shall not be liable for the operation of ATVs and UTVs on designated routes, pursuant to Wis. Stats. 895.52(1)(g).
- (n) On roads shared with another jurisdiction the most restrictive ordinance shall apply.

(3) Enforcement

- (a) This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin, Sheboygan County, and the Town of Herman
- (b) Penalties for violations of this ordinance shall be in accordance with ss. 23.33(13)(a), and the Town of Herman Code of Ordinances, 9.04(1).

CHAPTER 4

LICENSES AND PERMITS

4.01 General Procedures

Unless otherwise specifically provided by the laws of the State of Wisconsin or ordinances of the Town of Herman, the following provisions shall apply to the issuance, transfer and revocation of all licenses and permits issued under the provisions of this code:

- (1) TOWN CLERK TO FURNISH FORMS - All applications for licenses or permits shall be made upon regular forms approved by the Town Board and furnished by the Town Clerk/Treasurer to the applicant.
- (2) FEES TO BE PAID IN ADVANCE - The amount of the license or permit fees shall be first paid to the Town Clerk and his receipt therefor shall be attached to the application.
- (3) APPLICATION TO BE SIGNED - (and notarized) - The application shall be signed by the applicant and where required, shall be sworn to before a notary public, or other public officer, authorized to administer oaths, and filed with the Town Clerk.
- (4) CONSIDERATION AND HEARING - The Town Clerk shall present such application to the Town Board at its next regular meeting held after the filing thereof, except where some town officer, board or commission is first required to examine or report upon such application, in which case the Town Clerk shall refer the application for report to such officer, board or commission and shall present the application report thereon to the Town Board as soon as reasonably possible thereafter. Opportunity shall be given, where necessary, by the Town Board to any person to be heard for or against the granting of any license or permit.
- (5) ISSUANCE - The Town Clerk shall issue such license or permit only after its issuance has been authorized by the Town Board or proper officer.
- (6) ISSUANCE BY ADMINISTRATIVE AUTHORITY - Where administrative authority to issue any license or permit is delegated to any town officer, board or commission under the terms of this code, such officer, board or commission shall grant such license or permit where proper application has been made in accordance with the provisions of this code unless the granting of same appears to be contrary to the health, safety, morals or general welfare of the public, in which case the reason for denial shall be reduced to writing and delivered or mailed to the applicant; such applicant may at any time within thirty (30) days thereafter request the Town Board or any respected appeal board to review such determination or any failure to make the same
- (7) CONDITIONS OF ISSUANCE
 - A. All Obligations to Town to Be Paid - Before any license or permit shall be issued under the provisions of this code, the Town Clerk shall check town records to determine whether or not any applicant is in arrears for taxes or any other obligation to any department of the town. If the Town Clerk shall find any applicant to be in arrears for taxes or any other obligations, the issuing officer or department shall withhold any and all licenses and permits for which an application has been made until such taxes or obligations have been paid in full.
 - B. Consent To Inspection Of Premises - As a condition of the granting of any license or permit, the licensee or permittee shall agree in writing that during the period of such license or permit, a peace officer or other duly authorized officials of the town may at all reasonable hours enter into and upon the licensed premises for the purpose of inspecting the said premises to ascertain if all town ordinances and state laws are being obeyed, and such person shall also consent to the removal from said licensed premises without warrant, or all things and articles there had in violation of town ordinances or state laws and to the introduction and receipt of such things and articles, in any prosecution or proceeding for violation of any provision of the town ordinances or state laws.

- (8) REPLACEMENT OF LOST OR DESTROYED LICENSE OR PERMIT - Whenever any license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employees, a duplicate in lieu thereof may be issued by the Town Clerk upon satisfying himself of the facts, for a fee of \$1.00.
- (9) REVOCATION OF LICENSE OR PERMIT - Any license or permit issued by the Town Board or any officer or department of the town may be revoked by the Town Board at any regular or special meeting by a majority vote in favor of such revocation, provided that no license or permit shall be revoked until the holder thereof has been given an opportunity to be heard by the Town Board. The Town Board shall summon and notify such licensee to appear before it at the time specified in the summons and notice, which shall not be less than three (3) days after the date of the service thereof, to show cause why his license should not be revoked. Notice of such hearing shall be given to said permit or license holder either personally or by registered mail by the Town Clerk in the time and manner as directed by the Town Board. Any license or permit issued by the Town Board, any town officer or department shall be and remain the property of the town and upon revocation thereof, the same shall be returned, after demand. The town reserves the right to institute suit against the holder or anyone having possession of such license or permit for the return of the same. Any person failing to return any such license or permit after revocation thereof and demand having been made as herein provided, shall be deemed to have violated the provisions of Chapter 9.04 (2).
- (10) REBATE OF FEE - No rebate or refund of any license fee or any part thereof shall be made for any reason.

(11) DUTIES OF LICENSEE

A. General Standards of Conduct - Every licensee under this ordinance shall:

1. Comply With Governing Law - Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
2. Operate Properly - Avoid all forbidden, improper, or unnecessary practices or conditions which do or may affect the public health, morals or welfare.
3. Cease Business - Refrain from operating the licensed businesses on premises after expiration of his license and during the period his license is revoked or suspended.
4. Display License - Every licensee shall post and maintain such license upon the licensed premises, vehicles, or machines in a place where it may be seen at all times.
5. Inoperative License - No person shall allow any license or permit to remain posted, or displayed or used after the period for which it was issued has expired, or when it has been suspended or revoked, or for any other reason become ineffective.

(12) AUTHORITY OF INSPECTORS - All persons authorized herein to inspect licensees and businesses shall have the authority to enter, with or without search warrant, at all reasonable times, the following premises:

- A. Those for which a license is required.
- B. Those for which a license was issued and which at the time of inspection are operating under such license.
- C. Those for which the license has been revoked or suspended.
- D. Reports By Inspectors - Persons inspecting licensees, their business, or premises as herein authorized shall report all violations of this code or of the state laws to the Town Board and shall submit such other reports as the Town Board shall order.
- E. Provisional Order - When an inspector has reported the violation of this code or of the state laws, the Town Board shall issue to the affected person a provisional order to comply.
 1. Nature Of Notice - The provisional order, and all other notices issued in compliance with this ordinance, shall be in writing, shall be personally served, and shall apprise the person

affected of his specific violations. In the absence of the person affected or his agent or employee a copy of such notice shall be affixed to some structure on the premises. Depositing such notice in the United States mail shall constitute service thereof.

2. Period For Compliance - The provisional order shall require compliance within ten (10) days of personal service on the affected person.
3. Hearing - Upon written application by the person affected before the expiration of the ten (10) days period for compliance, the Town Board shall order a hearing. Notice of such hearing shall be given to the affected person in the manner prescribed herein.

(13) CORRECTIONAL ORDER - When an inspector has reported a violation of this code or of state laws, the Town Board shall issue to the affected person a correctional order to comply.

- A. Nature of Notice - The correctional order, and all other notices issued in compliance with this ordinance, shall be in writing, shall be personally served, and shall apprise the person affected of his specific violations. In the absence of the person affected or his agent or employee, a copy of such notice shall be affixed to some structure on the premises. Depositing such notice in the United States mail shall constitute service thereof.
- B. Period For Compliance - The correctional order shall require compliance within ten (10) days of personal service on the affected person.
- C. Hearing - Upon written application by the person affected before the expiration of the ten (10) day period for compliance, the Town Board shall order a hearing. Notice of such hearing shall be given the affected person in the manner prescribed herein.

4.02 Junk and Junked Motor Vehicle Dealers

(1) LICENSE REQUIRED - No person or persons, association, partnership, firm or corporation shall hereafter in the Town of Herman, Sheboygan County, Wisconsin, without first obtaining a license as herein provided:

- A. Keep, conduct or maintain any building, structure, yard or place for keeping, storage or piling in commercial quantities, whether temporarily, irregularly, or continually, or for the buying or selling at retail or wholesale or dealing any old, used, or second hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper, or other metal (ferrous or non-ferrous) furniture, used motor vehicles or the parts thereof, or other articles which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk
- B. Keep, conduct, or maintain any building, yard, or place for keeping, storage or piling in commercial quantities, whether temporarily, irregularly, or continually, any scrap metal (ferrous or non-ferrous) where same is processed by either being cut, dismantled, or compressed in bales, which business is more commonly known as metal processing.
- C. Keep, conduct, or maintain any building, structure, yard, or place for keeping, storage or piling in commercial quantities, whether temporarily, irregularly, or continually, or for buying or selling at retail or wholesale used motor vehicles for use of their parts or as scrap.
- D. One carrying on any of the aforesaid businesses shall be referred to herein as a "Junk Dealer".

(2) APPLICATION - Application for a license to engage in the business of a junk dealer shall be filed with the Town Clerk upon a form provided by the town and shall be signed by the applicant or applicants. Said application shall state:

- A. The names and residences of the applicants, if an individual, partnership, or firm, or the names of the principal officers and their residence, if the application is an association or corporation.

- B. The length of time such applicant or applicants, if an individual, firm or partnership, or the manager or person in charge if the applicant is a firm or corporation, has or have resided in the Town of Herman, his or their places of previous employment, whether married or single, whether he or they or any of them have been convicted of a felony or misdemeanor and if so, what offense, when and in what court;
 - C. Whether the applicant or applicants or officers or manager of the applicant have been employed by a junk dealer or have been a junk dealer.
 - D. The detailed nature of the business to be conducted and the kind or materials to be collected, bought, sold, or otherwise handled.
 - E. The exact legal description and street address of the premises used, or to be used as a junk yard, and zoning thereof.
- (3) NOTARIZATION - Every application for a license to engage in the business of junk dealer shall be executed and acknowledged before a notary public or other officer authorized to administer oaths in the County of Sheboygan.
- (4) APPROVAL OF APPLICATION - Before the application is forwarded to the Town Board, the Town Clerk shall examine and check the description of the application with the premises used or to be used as a junk yard and shall sign the statement attached to the application as to the correctness of the description. The applicant, if the Town Clerk or Town Board requires such, shall also submit the application to the Building Inspector, Plumbing Inspector, Fire Chief and Health Commissioner, who shall inspect the premises and sign the statement attached to the application, stating whether the premises comply with all ordinances, laws, rules and regulations.
- A. The premises and all structures thereon shall be so situated and constructed that the business of junk dealers may be carried on in a sanitary manner, shall contain no fire hazard and shall be arranged so that thorough inspection may be made at any time by the building, plumbing, fire, police and health authorities. Upon proper execution of the application and the payment of the required license fee to the Town Clerk, the application shall be filed with said Town Clerk. The Clerk shall forward the application to the Town Board at a regular, or special meeting called for that purpose. A majority vote of the members present shall authorize the issuance or denial of a license. No such permit shall be issued by the Town Clerk until favorable action upon the application thereof is first had by the Town Board.
- (5) ISSUING OF LICENSES - All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the junk business, the date of issuance and the expiration of the license, and the name and address of the licensee.
- A. No license as a junk dealer shall be granted to any person, firm, or corporation, who shall have been convicted within one (1) year prior to the date of the application of a violation of this section; nor to any person who has within one (1) year prior to the date of application been convicted of a felony.
- (6) FEES - Each junk dealer shall pay an annual license fee of \$25.00. All licenses shall be issued as of July 1st and shall continue in force until June 30th next succeeding the day of issuance thereof, unless sooner revoked as provided by law.
- (7) POSTING OF LICENSES - Every holder of a junk dealer's license shall at all times keep the license posted in a conspicuous place on the premises described in the application for such license. No person shall post such license or permit it to be posted upon any premises other than those mentioned in the application, or knowingly deface or destroy the license.
- (8) LICENSES LOST OR DESTROYED - Whenever a license shall be lost or destroyed, without fault on the part of the holder or his agent, or employees, a duplicate license shall be issued by the Town Clerk upon the filing of an affidavit setting forth the circumstances of the loss or destruction and upon the payment of the sum of \$1.00.

- (9) CHANGE OF LOCATION - Every junk dealer's license shall designate the place of business in or from which the junk dealer received such license shall be authorized to carry on such business. No licensee shall remove his place of business from the place designated in the license until a written permit has been secured from the town and the same shall have been endorsed upon the license. All licenses affected by such change shall be altered to contain the new address.
- (10) HEALTH REGULATIONS - The health officer may formulate reasonable rules and regulations relating to the conduct of the business of junk dealing which shall be designed to protect the health of the community. No junk dealer shall violate any such rule or regulation.
- (11) INFORMATION TO PEACE OFFICER - Each licensed junk dealer shall furnish to any peace officer of the Town of Herman, County of Sheboygan, or State of Wisconsin, such information as he may require to ascertain the names of the seller or sellers of any junk or articles which have been purchased by the junk dealer.
- (12) REGULATIONS CONCERNING PREMISES - The contents of the premises of every junk dealer shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every junk dealer shall be subject to inspection by the town or other proper authorities at any time.
- A. All paper that is stored shall be baled and all rags kept shall be baled or bagged and both shall be kept within a building on the premises.
 - B. The wrecking or storage yard shall be fenced by a tight board fence at least seven (7) feet high, constructed so that no dust or other materials may pass through. Said enclosure shall be maintained in good condition at all times and no articles or materials shall be piled so as to protrude above said enclosure.
 - C. No premises shall be used for carrying on the business of a junk dealer unless said premises are located more than one thousand (1,000) feet from any residential building, school building or other public building, and more than one thousand (1,000) feet outside the limits of any platted subdivision, or five hundred (500) feet from the center of any town road.
- (13) REVOCATION - Upon complaint being made in writing by any town official or resident of the Town of Herman that any licensee has violated any of the provisions of this ordinance, such complaint shall be turned over to the Town Board who shall summon such licensee to appear before it at the time specified in the summons, which shall not be less than three (3) days after the date of the service thereof, to show cause why his license should not be revoked. The Town Board shall proceed to hear the matter and a majority vote of the members present shall determine whether such junk dealer's license should be revoked or not.
- A. Whenever any license shall be so revoked, no refund of any unearned portion of the fee therefore shall be made and no license shall be granted to any person, firm, partnership, association, or corporation whose license has been so revoked within a period of three (3) years from the date of such revocation. Notice of such revocation and the reason or reasons therefore in writing shall be served by the Town Clerk upon the person, firm, partnership, association, or corporation named in the application by mailing the same to the address given in the application and upon filing a copy of same in the office of the Town Clerk.
- (14) PENALTY - Any person, firm, or corporation, who by himself, or itself, or by his or its clerk, agent or employee shall conduct the business of junk dealer as herein defined without the license required by this ordinance, or shall violate any of the provisions of this ordinance, or who, having had his, its, or their license revoked shall continue as a junk dealer, shall be subject to a penalty as provided in section 9.04 (1) of this code. A separate violation shall be deemed committed on each day on which a violation of any provisions of this section occurs or continues. In addition to the penalties imposed, the license of the person, persons, firm, or association, partnership, or corporation violating the same, shall be cancelled or revoked.

4.03 Intoxicating Liquor and Fermented Malt Beverages

(1) STATE STATUTES ADOPTED - The provisions of Chapter 125 of the Wisconsin Statutes relating to the sale of intoxicating liquor and fermented malt beverages are hereby adopted and made a part of this ordinance by reference.

(2) LICENSES

A. When Required - No person, except as provided by sub. 1 of this section, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license or permit as provided in this section, nor without complying with all the provisions of this section and all statutes, ordinances and regulations of the state and town applicable thereto.

(3) LICENSE FEES - There shall be the following classes and denominations of licenses, which, when issued by the Town Clerk under the authority of the Town Board after payment of the fee hereinafter specified, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in Chapter 125 of the Wisconsin Statutes:

A. Class "A" fermented malt beverages retailer's license - \$100.00 per year.

B. Class "B" fermented malt beverage retailer's license is \$100.00 per year or 3/4 of such amount for a 6-month period.

C. Picnic and club licenses as defined in ss. Chapter 125(10) shall be issued for a fee of \$10.00.

D. Class "B" fermented malt beverage retailer's licenses for brewers shall be issued pursuant to Section 125.29 of Wisconsin Statutes.

D. Wholesaler's fermented malt beverage license - \$125.00 per year or fraction thereof.

E. Special wholesaler's license - \$125.00 per year.

F. Beverage operator's license - \$5.00 per year or fractional part thereof.

G. Retail Class "A" liquor license - \$150.00 per year.

H. Retail Class "B" liquor license - \$150.00 per year.

I. Part-time or semi-annual liquor licenses shall be issued pursuant to section 125.06.

(4) LICENSE RESTRICTIONS - In addition to the requirements imposed by provisions of the Wisconsin Statutes adopted by reference in sub. 1 of this section, the following restrictions shall apply to the issuance of licenses or permits pursuant to this section:

A. Requirements for Licenses - No license or permit shall be issued to any person who does not meet the qualifications of ss. 125.04. This paragraph shall not apply to Wisconsin corporations but shall apply to all officers and directors of any such corporation.

B. Effect of Revocation of License - No license shall be issued for any premises if a license covering such premises has been revoked within six (6) months prior to application. No license shall be issued to any person who has had a license pursuant to this section revoked within twelve (12) months prior to application.

C. INSPECTION OF APPLICATION AND PREMISES - The Town Clerk shall notify the Health Officer and Building Inspector of all license and permit applications, and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto and the applicant's fitness for the trust to be imposed. No license or permit provided for in this section shall be issued without the approval of a majority of the Town Board.

- D. Health and Sanitation - No license shall be issued for any premises which do not conform to the sanitary, safety and health requirements of the Department of Industry, Labor and Human Relations and the State Board of Health, and to all such ordinances and regulations adopted by the Town.
- E. Tax Delinquencies - No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the town are delinquent or unpaid.

(5) SEARCH OF LICENSED PREMISES - It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hours by any police officer of the Town of Herman without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this section.

(6) POSTING LICENSES - Licenses or permits issued under this section shall be posted and displayed as provided in ss. 125.04 of the Wisconsin Statutes.

(7) SAFETY AND SANITATION REQUIREMENTS - Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(8) REVOCATION AND SUSPENSION OF LICENSES

- A. Procedure - Except as hereinafter provided, the provisions of ss. 176.11 and 176.12 of the Wisconsin Statutes shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this section. Revocation or suspension proceedings may be instituted by the Town Board upon its own motion by adoption of a resolution.
- B. Suspension Of Licenses - The Town Chairman upon obtaining reasonable information that any licensee has violated any provision of this section or any state or federal liquor or fermented malt beverage law or committed any felony may suspend the license or permit of such person for a period not to exceed ten (10) days pending hearing by the Town Board pursuant to paragraph (a).
- C. Automatic Revocation - Any license or permit issued under the provisions of this section shall stand revoked without further proceedings upon the conviction of a licensee or permittee or his employee, agent, or representative of a second offense under this ordinance or chs. 176 or 139 or s. 66.054 of the Wisconsin Statutes or any other state or federal liquor or fermented malt beverage law or any felony.
- D. Repossession Of License or Permit - Whenever any license or permit under this section shall be revoked or suspended by the Town Board or Town Chairman or action of any court or paragraph C. it shall be the duty of the Clerk to notify the licensee or permittee of such suspension or revocation and to take physical possession of the license or permit wherever it may be found and file it in the Clerk's office.

(9) NO VESTED INTEREST IN LICENSE - Nothing in this section shall be interpreted to grant ownership or a vested interest in any license issued under this section. The Town Board, without showing cause, may refuse to reissue any license set forth herein.

- (9) PENALTY - The penalty for violation of any of the provisions of this section shall be a penalty as provided in Section 9.04(1) of this code. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

4.04 Regulation and Licensing of Dogs

(1) LICENSE REQUIRED_The owner of a dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, obtain, and dog license and pay the license fee. The license year commences on January 1 and ends on the following December 31.

(2) LICENSE FEE; LATE FEE:

- (a) The dog license fee shall equal the minimum dog license fee prescribed by sec. 174.05(2), Stats., or other fee as established by resolution of the town board.
- (b) Late Fee: The Town Treasurer, or a designated collecting official, shall assess and collect a late fee of Fifteen Dollars (\$15.00) from every owner of a dog five months of age or over, if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age.

(3) ISSUANCE OF LICENSE:_Upon paying the Town Treasurer or designated collecting official the above-named sum, and upon submitting a current rabies immunization certificate, the Town Treasurer or other designated official shall issue to every owner a license to keep the dog for the license year. Every owner, upon procuring such license, shall place upon the owner's dog a collar, to which is attached the dog tag furnished by the Town Treasurer or designated collecting official.

(4) DEFINITIONS:

- (a) "Owner" includes any person who owns, harbors or keeps a dog.
- (b) "Dog Running "At Large. " A dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.
- (c) "Collar" means a band, strip or chain placed around the neck of a dog.
- (d) "Domestic Animal" includes livestock, dogs and cats.
- (e) "Game Animal" means any game species identified as such by the Wisconsin Department of Natural Resources.
- (f) "Livestock" means any horse, bovine, sheep, goat, pig, domestic rabbit or domestic fowl, including game fowl raised in captivity.
- (g) "Officer" means a Sheboygan County Sheriff's Deputy, Town Constable, Wisconsin Department of Natural Resources Warden or other person designated by the Town Board.
- (h) "Untagged dog." A dog is considered to be untagged if a valid license is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

(5) RESTRICTION ON KEEPING OF DOGS: It shall be unlawful for any person within the Town to own, harbor or keep a dog which:

- (a) Causes injury to a person or threatens a person with bodily harm
- (b) Causes injury to a domestic animal or threatens a domestic animal with bodily harm.
- (c) The owner has reason to believe is infected with rabies or has been in contact with a rabid animal.
- (d) Habitually pursues any vehicle upon any public street, alley, or highway in the Town.
- (e) Is found to be running at large within the Town limits.
- (f) Habitually barks or howls so as to annoy any person or persons.

(g) Chases wildlife identified as game animals, while running at large and without direct human supervision.

(6) DUTY OF OWNER IN CASE OF DOG BITE: An owner who has reason to believe that such dog bit a person shall immediately report such fact to the Town Clerk or designated official. The Town Clerk or designated official shall order the dog quarantined pursuant to sec. 95.21, Stats.

(7) DOG RUNNING AT LARGE OR UNTAGGED DOG SUBJECT TO IMPOUNDMENT AND PENALTY:

- (a) Any person may attempt to capture and restrain any dog running at large and any untagged dog. Dogs so restrained shall be remanded to an officer for impoundment.
- (b) Any officer shall attempt to capture and impound any untagged dog running at large and is authorized to impound any dog found to be in violation of Section 4.04(5) of this ordinance.
- (c) Possession of dogs impounded under this section may be obtained by paying a sum of \$20.00 to the Town Treasurer, plus \$2.00 per day for each day or fraction thereof the dog has been so impounded. Dogs impounded for a period of seven days or longer shall be disposed of at the discretion of the Town Constable or other designated officer.
- (d) Penalty – Except for impoundment or late fees under s. 4.04(2)(b) of this code, the penalty for violation of any of the provisions of this section shall be a penalty as provided in s. 9.05(1) of this code

4.05 Regulation of the Moving of Buildings

(1) PURPOSE - This provision provides for certain standards and requirements for the safe moving of buildings and structures on the lands, roads and highways of the Town of Herman. Its purpose is to protect and foster the health, safety and well being of the persons occupying or using such buildings and of the general public.

(2) PERMITS - Before any building is moved within or into the Town of Herman, permits must be first obtained for the moving of said building pursuant to this ordinance and permits necessary under any building, electrical and plumbing codes of the Town of Herman.

(3) BOND REQUIRED - Before a permit to move any building is granted by the Town Clerk, the party applying therefor shall give bond in the sum of One Thousand (\$1,000.00) Dollars with good and sufficient sureties to be approved by the Town Board, conditioned, among other things, that said party will save and indemnify judgments, costs and expenses which may in any way accrue against the town and will save the town harmless against all liabilities, judgments, costs and expenses in consequence of granting such permit, and further, that the surety and principal shall agree to pay the town any and all damages suffered by it, including the repair of roads, as a consequence of the moving of said building.

(4) CONTENTS OF PERMIT: REGULATIONS - Every permit to move a building shall state all conditions to be complied with, designate the route to be taken and limit of time for removal. The removal of a building shall be continuous during all hours of the day, and day by day, and at night if the Town Clerk shall so order until completed, with the least possible obstruction to thoroughfares. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.

(5) ROUTE TO BE DESIGNATED - Every permit to move a building shall state all conditions to be complied with, designate the route to be taken and limit the time for moving. Before the permit for moving of a building is granted, the mover or his agent shall notify the Town Clerk, describing the route to be taken. The Sheriff of Sheboygan County, the Town Constable and the Chief of the Howards Grove, Ada and Franklin Fire Departments shall also be notified as to the route to be taken.

(6) INSPECTION AND REPAIR OF STREETS AND HIGHWAYS

Every person receiving a permit to move a building shall, within one day after reaching its designation, report that fact to the Town Clerk. The Town Clerk, or his representative, shall thereupon inspect the streets and highways over which said building has been moved and ascertain their conditions. If the removal of said building has caused any damage to the streets or highways, the house-mover shall forthwith place them in as good repair as they were before the permit was granted. Upon failure of the house-mover to do so within ten days thereafter to the satisfaction of the Town Clerk, the Town Board shall repair the damage done to such streets and highways and hold the sureties of the bond given by the house-mover responsible for the payment of same.

(7) REQUIREMENTS FOR MOVING

- A. Building To Be Measured Before Moving - Permission shall in no case be granted to move a building in, along or upon the public roads of the Town of Herman until such building shall have been measured and it shall appear from such measurement that the moving of the building along or upon the roads proposed will not injure any shade trees along said road.
- B. Time To Be Designated - No building shall be moved or caused to be moved on any thoroughfare in the Town of Herman without the consent of the Town Clerk.
- C. Distance At Intersections - No person shall place for moving or permit to remain upon, across or within twenty (20) feet of any highway intersection, railroad tracks, switch or turnout, any building or any equipment used in the moving of buildings within the Town of Herman.

(8) PERMIT FEES - Before the Town Clerk shall issue a permit to move a building, he shall collect the fee of Five (\$5.00) Dollars.

(9) PENALTIES - In addition to the revocation provisions herein, the penalty for violating any provision of this chapter shall be as provided in section 9.04 (1) of this code. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.

CHAPTER 5

OFFENSES AGAINST PUBLIC PEACE, SAFETY, MORALS AND PUBLIC POLICY

5.01 Ordinance Prohibiting the Parking, Storage and Accumulation of Defective and Unlicensed Motor Vehicles

(1) PURPOSE - The purpose of this ordinance is to protect and foster the health, safety and well being of persons in the Town of Herman for the protection of their property rights and to beautify the landscape and otherwise promote the public interest, including the elimination of attractive nuisances.

(2) DEFINITION - As used herein, the term "motor vehicle" shall be construed to include all motor vehicles for which the Wisconsin Statutes requires a license when used upon public roadways within the state.

(3) ACCUMULATION UNLAWFUL - It shall be unlawful to park, stand, store, or accumulate, disassembled or inoperable or junked or wrecked motor vehicles, or to park, store, allow to stand or accumulate more than one (1) unlicensed operable motor vehicle by any owner of land or occupant of any land in the Town of Herman, except for the following persons, firms or corporations operating in areas properly zoned:

- A. Properly licensed and equipped junk yards or motor vehicle salvage dealers:
- B. Operable motor vehicles displayed for resale by properly licensed used and new car dealers:
- C. Unlicensed vehicles that are being used as farm equipment and any vehicles that are in garages or other like structures hidden from public view. A fence shall not be considered a structure under this ordinance.

(4) NOTICE - The Town Board, upon discovering a violation of this ordinance, shall in writing notify the owner or occupant or both of the lands upon which such motor vehicle is found, that said motor vehicle must be removed within ten (10) days or the Town of Herman shall cause such to be removed and the cost of such removal shall be charged to the owner or occupant or both of said land, and that failure to remove said motor vehicle shall subject him to fines for each day said violation continues.

(5) REMOVAL BY TOWN

- A. If after due notice as set forth herein, the occupant or owner of said real estate shall fail to remove said motor vehicle, the Town may cause such motor vehicle or vehicles to be removed to junk or salvage yards and stored for a period of not less than twenty (20) days.
- B. Upon the failure of said owner or occupant of said lands to reclaim and pay the costs of handling and storage of said motor vehicle or vehicles within said twenty (20) days, the operator of said junk or salvage yard may dispose of same.
- C. If the costs of handling and storage are not paid by the owner or occupant within thirty (30) days or from the disposal of the motor vehicles, the Town Board may, if notice of removal was given to the property owner, place and enter said amount on the tax roll as a special charge against the property.

(6) PENALTY - Any person, firm or corporation, or any officer of any corporation, who shall violate or cause to be violated any provision of this section. or interfere in any manner with the enforcement of this section, shall upon conviction thereof, be penalized as provided in section 9.04 (1) of this code.

5.02 Grass and Rubbish Burning

(1) BURNING PERMITTED - No person shall burn any combustible material within the road rights-of-way of the Town of Herman at any time, nor shall any person burn any combustible material upon any lot or lands located in the Town of Herman except between the hours of 4:00 p.m. and 10:00 p.m. of each day, Monday through Friday, or between the hours of 8:00 a.m. and 10:00 p.m. on Saturday and Sunday. At no time shall a fire be built within twenty-five (25) feet of any building or pile of lumber, nor shall the smoke or heat aided by such combustion be an annoyance or discomfort to the neighborhood or traveling public.

(2) FIRES MUST BE ATTENDED - Any such fire in the Town of Herman shall be attended at all times until extinguished by a competent adult.

(3) PENALTY - The penalty for violation of this section shall be a penalty as provided in section 9.04 (1) of this code.

5.03 Mobile Homes and Mobile Home Parks

(1) PURPOSE - An ordinance enforcing Minimum Standards for mobile home parks: establishing requirements for the design, construction, alteration, extension and maintenance of mobile home parks and related utilities and facilities; authorizing the issuance of permits for construction, alteration and extension of mobile home parks, authorizing the licensing of operators of mobile home parks; authorizing the inspection of mobile home parks, fixing penalties for violations, and regulating the parking of mobile homes.

(2) DEFINITIONS

- A. License - means a written license issued by the Town Clerk allowing a person to operate and maintain a mobile home park under the provisions of this ordinance and regulations issued hereunder.
- B. Licensee - means any person licensed to operate and maintain a mobile home park under this section.
- C. Mobile Home - is that which is, or was an originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped, and used primarily for sleeping, eating, and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations, and appurtenances. except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations, and appurtenances equals or exceeds 50 percent of the assessable value of the house trailer.
- D. Mobile Home Lot - means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- E. Mobile Home Park - means a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use.
- F. Mobile Home Stand - means that part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures, or additions.
- G. Permit - means a written permit issued by the Town Clerk permitting the construction, alteration, and extension of a mobile home park under the provisions of this ordinance and regulations issued hereunder.
- H. Person - means any individual, firm, trust, partnership, public or private association or corporation.
- I. Sewer Connection - means the connection consisting of all pipes, fittings, and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe.
- J. Sewer Rise Pipe - means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.
- K. Water Connection - means the connection consisting of all pipes, fittings, and appurtenances from the water riser pipe of the distribution system within the mobile home.
- L. Water Rise Pipe - means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

(3) PARKING OF MOBILE HOMES - it shall be unlawful for any person to park, keep, or maintain a mobile home for purposes of human habitation within the Town of Herman except:

- A. When located within an approved Mobile Home Park licensed under this ordinance, or,
- B. When located in private property, and its use is limited as a field office trailer during the period of a construction project, provided it is not used for overnight lodging, or,

- C. When located on private property in connection with a bona fide visit with the owner or occupant of said premises provided said stay will not exceed twenty-one (21) days, or,
- D. When located on private property as a temporary place of abode if the same is a substitute for a residence that has within a previous sixty-day (60) period been destroyed by fire or an act of God and is being rebuilt provided said use does not exceed ninety (90) days.
- E. When located on private property as a temporary place of abode during the period of a new home construction on the same site, but in no event longer than one hundred eighty (180) days.
- F. All trailers not now parked in conformance with the herein ordinance shall be permitted to remain in their present location until the property upon which the same is located, or the trailer itself, is sold or otherwise conveyed, but said trailer shall be subject to the monthly parking fee and its payment requirements and shall be required to fully conform and comply with all the applicable requirements of this ordinance.

(4) LICENSES FOR MOBILE HOME PARKS - It shall be unlawful for any person to operate any Mobile Home Park within the limits of the Town of Herman unless he holds a valid license issued annually by the Town Board in the name of such person for the specific Mobile Home Park. All applications for licenses shall be made to the Town Clerk, who shall issue a license upon compliance by the application with provisions of this ordinance and regulations issued hereunder and of other applicable legal requirements.

- A. APPLICATION - Application for licenses shall be In writing signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of a fee of One Hundred (\$100.00) Dollars for each fifty (50) spaces or fraction thereof within said park, and shall contain: the name and address of the applicant: the location and legal description of the Mobile Home Park: and a site plan of the Mobile Home Park showing all mobile home lots, structures. roads, walkways, and other service facilities.
- B. Transfer Of License - Every person holding a license shall give notice in writing to the health authority within twenty-four (24) hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any Mobile Home Park. Such notice shall include the name and address of the person succeeding in the ownership or control of such Mobile Home Park. Upon application in writing for transfer of the license and deposit of a fee of Ten and no 100ths (\$10.00) Dollars, the license shall be transferred if the Mobile Home Park is in compliance with all applicable provisions of this ordinance and regulations issued hereunder.
- C. Suspension Of License - Whenever, upon inspection of any Mobile Home Park, it is determined that conditions or practices exist which are in violation of any provision of this ordinance or regulations issued hereunder, the Town Board shall give notice in writing to the person to whom the license was issued that unless such, conditions or practices are corrected within a reasonable period of time specified in the notice the license shall be suspended. At the end of such period, there shall be a reinspection of such Mobile Home Park and, if such conditions or practices have not been corrected, the Town Board shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. Upon receipt of notice of such suspension, such person shall cease operation of such Mobile Home Park, and all mobile homes shall be removed from the Mobile Home Park and premises within thirty (30) days.
- D. Request For Hearing - Any person whose application for a license under this ordinance has been denied, or whose license has been suspended, or suspension is threatened, may within ten (10) days in writing request and shall be granted a hearing on the matter before the health authority under the procedure provided herein.

(5) PARK ENVIRONMENTAL REQUIREMENTS - All Mobile Home Parks shall meet the State Board of Health requirements for mobile homes as set forth in the Wisconsin Administrative Code, presently being Chapter H77 and shall include any subsequent amendments thereto. When the provisions of the herein ordinance are more restrictive, the more restrictive provision shall apply.

- A. General Requirements - Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

- B. Soil And Ground Cover Requirements - Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetable growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- C. Site Drainage - The ground surface in all parts of every mobile home shall be graded and equipped to drain all surface water in a safe, efficient manner.
- D. Nonresident Uses Prohibited - No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.
- E. Required Separation Between Mobile Homes - Mobile homes shall be separated from each other and from other buildings and structures by at least fifteen (15) feet; provided that mobile homes placed end-to-end may have a clearance of ten (10) feet where opposing rear walls are staggered. An accessory structure which has a horizontal area exceeding twenty-five (25) square feet, is attached to a mobile home or located within ten (10) feet of its window and has an opaque top or roof that is higher than the nearest window shall, for purpose of all separation requirements, be considered to be part of the mobile home.
- F. Required Recreation Areas - In all parks accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents. The size of such a recreation area shall be based upon a minimum of one hundred (100) square feet for each lot. No outdoor recreation area shall contain less than 2,500 square feet. Recreation areas shall be so located as to be free of traffic hazards, and should, where the topography permits, be centrally located.
- G. Required Setbacks, Buffer Strips and Screening - All mobile homes shall be located at least twenty-five (25) feet from any park property boundary line abutting upon a public street or highway and at least fifteen (15) feet from other park property boundary lines. There shall be a minimum distance of ten (10) feet between an individual mobile home and adjoining pavement of a park street, or common parking area or other common areas. All mobile home parks shall be provided with screening such as fences or natural growth along the property boundary line separating the park and such adjacent uses giving consideration to the aesthetics of the general neighborhood.
- H. Park Street System - All mobile home parks shall be provided with safe and convenient vehicular access from abutting streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography.
 - 1. Access: Access to Mobile Home Parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of thirty-four (34) feet where parking is permitted on both sides, or a minimum road pavement width of twenty-seven (27) feet where parking is limited to one side. Where the primary entrance road is more than one hundred (100) feet long and does not provide access to abutting mobile home lots within such distance the minimum road pavement width may be twenty-four (24) feet, provided parking is prohibited at both sides.
 - 2. Internal Streets: Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:
 - (a) All streets, except minor streets: 24 feet.
 - (b) Minor streets, no parking: 18 feet (Acceptable only if less than 500 feet long and serving less than 35 mobile homes or of any length if one-way and providing access to abutting mobile home lots on one side only).
 - (c) Dead end streets shall be limited in length to 1,000 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least sixty (60) feet.

3. Required Illumination of Park Streets - All parks shall be furnished with lighting units so spaced and equipped with lights placed at such mounting heights as will provide the adequate levels of illumination for the safe movement of pedestrians and vehicles at night.
4. Street Construction and Design Standards - All streets shall be provided with a smooth, hard, and dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained free of cracks, holes, and other hazards.
 - I. Off-Street Parking - Off-street parking areas shall be provided in all Mobile Home Parks for the use of park occupants and guests at the rate of at least 1.25 car spaces for each mobile home lot, and shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of two hundred (200) feet from the mobile home that it is intended to serve.
 - J. Walks - A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks have a minimum width of three (3) feet. All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet.
 - K. Mobile Home Stands - The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.
 - L. Minimum Lot Area - Each park shall provide mobile home spaces, and each space be clearly defined and delineated. Each space shall have a minimum of three thousand (3,000) square feet of area.

(6) ELECTRICAL DISTRIBUTION - Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

- A. Main Lines - Main power lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum horizontal clearance of three (3) feet between over-head wiring and any mobile home, service building or other structure.
- B. Individual Electrical Connections - Each mobile home lot shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per outlet shall be 120/240 volts AC, 50 amperes.

(7) WATER SUPPLY - An accessible, adequate, safe, and potable supply of water shall be provided in each mobile home park. Where a public supply of water of satisfactory quantity, quality, and pressure is available, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply is not available, a private water supply system may be developed and used as approved by the health authority.

(8) SEWAGE DISPOSAL - Where the sewer lines of the Mobile Home Park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the health officer prior to construction. Effluents from sewage treatment facilities shall not be discharged into any waters of the State except in compliance with the Wisconsin Statutes.

(9) REFUSE HANDLING - The storage, collection and disposal of refuse in the Mobile Home Park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or fire pollution.

(10) HEALTH - A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to water, sewerage, and electrical utilities. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

- A. Insect And Rodent Control - Grounds, buildings and structures shall be maintained free of insects and rodents and shall be maintained free of accumulations of debris which may provide rodent harboring or breeding places of flies, mosquitoes, and other pests.

- B. Storage - No lumber, pipe building materials, or other matters not in regular use shall be stored upon the premises in open view and the park shall be kept free of litter.

(11) NOTICE AND HEARINGS - Whenever there are reasonable grounds to believe that there has been a violation of any provision of this ordinance, or regulations issued hereunder, the Town Board, Clerk, or Health Officer shall give notice of such alleged violation to the person to whom the permit or license was issued, as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time for the performance of any act it requires; (d) be served upon the owner or his agent as the case may require by certified mail to his last known address, and contain an outline of remedial action which, if taken, will effect compliance with the provisions of this ordinance and regulations issued hereunder.

- A. Hearing - Any person affected by any notice which has been issued in connection with the enforcement of any provision of this ordinance or regulation issued hereunder, may request and shall be granted a hearing on the matter before the Town Board.
 - 1. Application - Such person shall file in the office of the Town Clerk a written petition requesting such a hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. The filing of the request for a hearing shall operate as a stay of notice and of any suspension.
 - 2. Time And Place - Upon receipt of such petition, the health authority shall set a time and place for such hearing and shall give the petitioner written notice thereof.
 - 3. Presentation By Petitioner - At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.
- B. Findings And Order - After such hearing, the Town Board shall make findings as to compliance with the provisions of this ordinance and regulations issued hereunder, and shall issue an order in writing sustaining, modifying, and withdrawing the notice. Upon failure to comply with any order sustaining or modifying a notice, the license of the Mobile Home Park affected by the order shall be revoked.

(12) RESPONSIBILITIES OF PARK MANAGEMENT - The person to whom a license for a Mobile Home Park is issued shall operate the park in compliance with this ordinance and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and a clean and sanitary condition.

- A. Notice to Occupants - The park management shall notify park occupants of all applicable provisions of this ordinance and inform them of their duties and responsibilities under this ordinance and regulations issued hereunder.
- B. Supervision - The park management shall supervise the placement of each mobile home on its mobile home stand which includes securing its stability and installing all utility connections.
- C. Registration - The park management shall maintain a register containing the names of all park occupants. Such a register shall be available to any authorized person inspecting the park.
- D. Health Notices - The park management shall notify the health officers immediately of any suspected communicable or contagious disease within the park.

(13) MONTHLY PARKING PERMIT FEES - There is hereby imposed on each owner of a non-exempt, occupied mobile home in the Town of Herman a monthly parking permit fee determined in accordance with section 66.058 (3) Wisconsin Statutes, which is hereby adopted by reference and made a part of this ordinance as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees and owners of mobile homes permitted to be located on land outside a mobile home park shall pay to the Town Treasurer such parking permit fees on or before the 10th of the month following the month for which such fees are due in accordance with the terms of this ordinance and such regulations as the Treasurer may reasonably promulgate.

- A. Information To Assessor - Licensees of mobile home parks and owner of land on which are parked any occupied, non-exempt mobile home shall furnish information to the Town Clerk and Town Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the Town Clerk in accordance with section 66.053(3)(c) and (e) Wis. Stats.

- B. Advance Deposits - Owners of non-exempt, occupied mobile homes, upon receipt of notice from the Town Clerk of their liability for the monthly parking fee, shall remit to the Town Clerk a cash deposit of Twenty-five (\$25.00) Dollars to guarantee payment of such fees when due to the Town Treasurer. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such cash deposits from each occupied, non-exempt mobile home therein and remit such deposits to the Town Clerk. Upon receipt of a notice from the owner or licensee that the non-exempt, occupied mobile home has been or is about to be moved from the town, the Town Clerk shall direct the Town Treasurer to apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

(14) PENALTIES - Any person violating any provision of this ordinance shall upon conviction thereof forfeit not less than ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars and the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment of such forfeiture and the costs of prosecution, but not exceeding thirty (30) days for each violation, provided that the forfeiture for violation of Section 13, B shall not exceed Twenty-five (\$25.00) Dollars. Each day of violation shall constitute a separate offense.

(15) VALIDITY -If any section, subsection, paragraph, sentence, clause or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect, and to this end, the provisions of this ordinance are hereby declared to be severable.

5.04 Parking on Town Roads

(1) DEFINITION - A "town road" shall mean any road, street or alley located in the Town of Herman over which the Town Board has care and supervision under the Wisconsin Statutes.

(2) PARKING PROHIBITED - There shall be no parking of motor vehicles on paved or traveled portions of any town road and there shall be a minimum of twenty (20) feet open to traffic at all times.

(3) PENALTY - Any person who shall violate or cause to be violated any provision of this section shall upon conviction thereof be penalized as provided in section 9.04 (1) of this code.

5.05 Public Nuisance

(1) PUBLIC NUISANCES PROHIBITED - No person, persons, firm or corporation shall erect, contrive cause, continue, maintain or permit to exist any public nuisance within the Town of Herman, Sheboygan County, Wisconsin.

(2) DEFINITIONS

A. Public Nuisance - A public nuisance is a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:

1. Substantially annoys, injures, or endangers the comfort, health, repose, or safety of the public.
2. In any way renders the public insecure in life or in the use of property.
3. Greatly offends the public morals or decency.
4. Unlawfully and substantially interferes with, obstruct, or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

B. Public Nuisances Affecting Health - The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances coming within the definition of subsection A of this section:

1. All decayed harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
2. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 25 hours after death.
3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
4. All stagnant water in which mosquitoes, flies or other insects can multiply.
5. Privy vaults and garbage cans which are not fly-tight.
6. All noxious weeds and other rank growth of vegetation.
7. All animals running at large.

8. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the town limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities, or to threaten or cause substantial injury to property.
 9. The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, creamery or industrial wastes or other substances.
 10. Any use of property, substances or things within the Town of Herman or within 4 miles thereof, emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the town.
 11. All abandoned wells are not securely covered or secured from public use.
- C. Public Nuisances Offending Morals and Decency - The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection A of this section:
1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purposes of prostitution, promiscuous sexual intercourse, or gambling.
 2. All gambling devices and slot machines.
 3. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Town of Herman.
 4. Any place or premises within the Town of Herman where town ordinances or state laws relating to public health and safety, peace, morals or welfare are openly, continuously, repeatedly, and intentionally violated.
 5. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or the ordinances of the town.
- D. Public Nuisances Affecting Peace and Safety - The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection A of this section:
1. All ice not removed from public sidewalks and all snow not removed from public sidewalks within 12 hours after it has ceased to fall thereon.
 2. All signs and billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds of places frequented by the public, so situated or constructed as to endanger the public safety.
 3. All buildings erected, repaired, or altered within the fire limits of the Town of Herman, in violation of the provisions of the ordinances of the town, relating to materials and manner of construction of buildings and structures within said district.
 4. All unauthorized signs, signals, markings, or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.
 5. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
 6. All limbs of trees which project over a public sidewalk, less than eight (8) feet above the surface thereof or less than 10 feet above the surface of a public street.
 7. All use or display of fireworks except as provided by laws of the State of Wisconsin.
 8. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
 9. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
 10. All loud, discordant, and unnecessary noises or vibrations of any kind.

11. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, growling, or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the town.
12. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;
13. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk.
14. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
15. Any unauthorized or unlawful use of property abutting on a public street, alley, or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
16. Repeated or continuous violations of the ordinances of the Town of Herman or laws of the State of Wisconsin relating to the storage of flammable liquids.

(3) ABATEMENT OF PUBLIC NUISANCES

- A. Inspection Of Premises - Whenever complaint is made to the Town Board that a public nuisance exists within the Town of Herman, they shall promptly notify the Town Chairman, health officer or building inspector who shall forthwith make an inspection or cause it to be inspected, the premises and shall make a written report of his findings to the Town Board. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Clerk.
- B. Summary Abatement
 1. Notice To Owner- If the inspecting officer shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Chairman shall direct that notice be served on the owner or, if the owner cannot be found, on the occupant or person causing, permitting, or maintaining such premises. Such notice shall direct the owner, occupant or person causing, permitting, or maintaining such nuisance to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is abated, the town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting, or maintaining the same as the cause may be.
 2. Abatement By Town - If the nuisance is not abated within the time provided, or if the owner, occupant, or person causing the nuisance cannot be found, the health officer, in case of health nuisances, the constable, sheriff's department or town chairman, in other cases, shall cause the abatement or removal of such public nuisance.
- C. ABATEMENT BY COURT ACTON - If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, to shall file a written report of his findings with the Town Chairman who shall cause an action to abate such nuisance to be commenced in the name of the town in the circuit court of Sheboygan County in accordance with the provisions of Chapter 280 of the Wisconsin Statutes of 1967.
- D. OTHER METHODS NOT EXCLUDED - Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Herman or its officials in accordance with the laws of the State of Wisconsin.

(4) COST OF ABATEMENT - In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

(5) PENALTIES - The penalty for violation of this section shall be a penalty as provided in section 9.04 (l) of this code. A separate offense shall be deemed committed on each day on which a violation of any provision of this section occurs or continues.

5.06 Operation of Motor Boats

- (1) OPERATIONS PROHIBITED - No person may operate a motorboat of any kind in any manner except battery-powered electric motors at a slow-no wake speed and in no case at a speed to exceed 5 miles per hour on any inland lake within the Town of Herman
- (2) PENALTY - The penalty for violation of this section shall be as provided in section 9.04 (1) of this code.

CHAPTER 6

HEALTH REGULATIONS

6.01 Littering and Dumping of Trash

- (1) Prohibited acts.
 - (a) Littering - It shall be unlawful for any person to litter, deposit or dump any form of garbage or rubbish along the highways and parks within the limits of the Town of Herman. For purposes of this subsection, public highways shall include any street, avenue, lane, road, bridge, and adjacent ditches in the Town, dedicated or devoted to public use.
 - (b) Dumping on Public Property - It shall be unlawful to dump or move onto any public property in the Town of Herman any debris, manure, refuse, yard waste or snow, at any time, or to place objects thereon, without specific permission from the Town Board.
 - (c) Dumping on Private Property - It is unlawful to dump or store solid waste upon private property unless said procedure is licensed by and done in accordance with the statutes and regulations of the State of Wisconsin.
- (2) Waste Disposal at the Town Recycling Center.
 - (a) Non-Resident Dumping Prohibited. No person who is not a resident or landowner of the Town of Herman or the representative of a resident or landowner of the Town of Herman shall use the Town Recycling Center for the purposes of dumping refuse. No person shall dispose of refuse produced outside of the Town of Herman at the Town Recycling Center.
 - (b) Dumping at the Town Recycling Center - The Town Recycling Center shall be open for disposal and recycling operations as herein provided on such days and hours as the Town Board may establish. The hours of permitted use shall be posted at the Recycling Center and thereupon be in full force and effect. Disposal of waste and recyclable materials at the Recycling Center outside of established hours of operation shall constitute a violation of this section.
- (3) Penalties – The Penalty for violating this Section shall be a penalty as provided in s. 9.05(1) of this code.

6.02 Recycling Ordinance for the Town of Herman

- (1) PURPOSE: The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in s. 287.11, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.
- (2) STATUTORY AUTHORITY: This ordinance is adopted as authorized under s. 287.09 (3) (b), Wis. Stats.
- (3) ABROGATION AND GREATER RESTRICTIONS: It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.
- (4) INTERPRETATION: In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and Chapter NR 544 standards in effect on the date of

adoption of this ordinance, or in effect on the date of the most recent text amendment of this ordinance.

- (5) SEVERABILITY: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (6) APPLICABILITY: The requirements of this ordinance apply to all persons within the Town of Herman.
- (7) ADMINISTRATION: The provisions of this ordinance shall be administered by the town board of the Town of Herman.
- (8) DEFINITIONS: For the purposes of this ordinance:
 - (a) “Bi-metal container” means a container for carbonated, or malt beverages made primarily of steel and aluminum.
 - (b) “Container board” means corrugated paper board used in the manufacture of shipping containers and related products.
 - (c) “Foam polystyrene packaging” means material designed for food or beverage service or loose particles or rigid material for packaging and shipping use.
 - (d) “HDPE” means high density polyethylene plastic containers marked by the SPI code No.2.
 - (e) “LDPE” means low density polyethylene plastic containers marked by the SPI code No.4.
 - (f) “Magazines” means magazines and other materials printed on similar paper.
 - (g) “Major appliances” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer microwave oven, oven, refrigerator, or stove.
 - (h) “Mixed or other plastic resin types” means plastic containers marked by the SPI code No.7.
 - (i) “Multiple family dwelling” means a property containing five or more residential units, including those which are occupied seasonally.
 - (j) “Newspaper” means a newspaper and other materials printed on newsprint.
 - (k) “Non-residential facilities and properties” mean commercial, retail, industrial, institutional, and governmental facilities, and properties. This term does not include multiple family dwellings.
 - (l) “Office paper” means high grade, printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
 - (m) “Person” includes any individual, corporation, partnership, association, local government unit, as defined in s. 287.01 (5m), Wis. Stats., state agency or authority or federal agency.
 - (n) “PETE” means polyethylene terephthalate plastic containers marked by the SPI code No.1.
 - (o) “Post-consumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 289.01 (12), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 144.44 (7) (a) 1., Wis. Stats.
 - (p) “PP” means polypropylene plastic containers marked by SPI code No.5.
 - (q) “PS” means polystyrene plastic containers marked by SPI code No.6.
 - (r) “PVC” means polyvinyl chloride plastic containers marked by the SPI code No.3.
 - (s) “Recyclable materials” includes lead acid batteries, major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspapers; office paper; plastic containers, including those made of PETE, HDPE, PVC, LDPB, PP, PS, and mixed or other plastic resin types; steel containers; waste tires; and bi-metal containers.
 - (t) “Solid waste” has the meaning specified in s. 289.01(33), Wis. Stats.
 - (u) “Solid waste facility” has the meaning specified in s. 289.01 (35), Wis. Stats.
 - (v) “Solid waste treatment” means any method, technique or process which is designed to change the physical, chemical, or biological character or composition of solid waste. “Treatment” includes incineration.

- (w) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.
- (x) "Yard waste" means leaves, grass clippings, and yard and garden debris and brush, including branches and clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

(9) SEPARATION OF RECYCLABLE MATERIALS: Occupants of single family and two-to-four-unit residences, multiple family dwellings, non-residential facilities, places of business, industry commerce, farms, and governmental facilities shall separate the following materials from consumer waste:

- (a) Lead acid batteries.
- (b) Major appliances.
- (c) Waste oil.
- (d) Yard waste.
- (e) Waste tires.
- (f) Aluminum containers.
- (g) Bi-metal containers.
- (h) Corrugated paper or other container board.
- (i) Foam polystyrene packaging.
- (j) Glass containers. Keep window glass separate.
- (k) Magazines or other materials printed on similar paper.
- (l) Newspapers or other materials printed on newsprint.
- (m) Office paper.
- (n) Plastic containers made of PETE(#1), HDPE(#2), PVC(#3), LDPE(#4), PP(#5), PS(#6), and mixed or other plastic resin types(#7).
- (o) Steel containers.

(10) SEPARATION REQUIREMENTS EXEMPTED: The separation requirements of 6.02 (9) do not apply to the following:

- (a) Occupants of single family and two to four unit residences, multiple family dwellings and non-residential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in 6.02 (9) from solid waste in as pure a form as technically possible.
- (b) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (c) A recyclable material specified in 6.02 (9) for which a variance or exemption has been granted by the Department of Natural Resources under s. 287.07(7) or 287.11 (2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.

(11) CARE OF RECYCLABLE MATERIALS: To the greatest extent practicable, the recyclable materials separated in accordance with 6.02(9) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

(12) MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL, WASTE TIRES AND YARD WASTE: Occupants of single and two-to-four unit residences, multiple family dwellings, and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, waste tires and yard waste as follows:

- (a) Lead Acid Batteries; bring them to the recycling center.
- (b) Waste Oil; bring to the recycling center, do not mix with anything.

- (c) Refrigerators and Appliances with freon will be accepted at the center for a fee to be set by resolution of the town board.
- (d) Other Appliances, Furniture and Carpeting are accepted for a fee to be set by resolution of the town board.
- (e) Tires are accepted for a fee to be set by resolution of the town board.
- (f) Yard Waste shall be disposed of on the site at which it is produced.

(13) PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS: Except as otherwise directed by the town board or its representatives, occupants of single family and two-to-four unit residences shall do the following for the preparation and collection of separated materials specified in 6.02(9):

- (a) Steel/Tin Cans: Rinse out can, remove both ends and flatten.
- (b) Aluminum: Rinse out thoroughly. Examples include TV dinner trays, foil wrap, pot pie pans, aluminum cans, and siding.
- (c) Clear and colored glass: Rinse contents out of the jar or bottle thoroughly and remove and discard the cover, lid, or cap. Acceptable examples of containers include catsup, barbecue sauce, salad dressing, pickle, jam, jelly, peanut butter, beer, liquor, and wine bottles. Non-acceptable materials include plate glass, ceramics, clay items, and light bulbs and broken glass.
- (d) Plastic Containers: Rinse out thoroughly and remove caps and rings.
- (e) Magazines or other materials printed on similar paper shall be bundled separately.
- (f) Newspapers or other materials printed on newsprint or contained in newspapers as inserts shall be bundled separately.
- (g) Office paper shall be bundled separately.
- (h) Cardboard shall be flattened and bundled.

(14) SPECIFIED CONTAINERS:

- (a) Solid waste shall be placed in clear bags, not to exceed 30 gallons in size. Bags used shall be of sufficient strength to be handled by lifting from the top of the bag.
- (b) Recyclable materials shall be placed in blue recycling bags, which can be purchased at retail outlets.
- (c) All bagged solid waste and recyclables shall be brought to the Town of Herman Recycling Center during its normal hours of operation as promulgated by the town board, or at other times by appointment made with the town board or their designated representative.
- (d) The Town of Herman reserves the right to change any of the methods of preparing and collecting the materials in this section and shall provide posted, published or written notice to its residents of such changes.

(15) RESPONSIBILITY OF OWNERS OR DESIGNATED AGENTS OF MULTIPLE-FAMILY DWELLINGS:

- (a) Owners or designated agents of multiple-family dwellings shall do the following for recycling the materials as specified in 6.02(9)(f)-(o):
 1. Provide adequate, separate containers for the recyclable materials.
 2. Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.
 3. Provide for the collection of materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
 4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet processing requirements, collection methods or sites, locations and hours of

operation, and a contact person or company, including a name, address, and telephone number.

- (b) The requirements specified in (a) do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for the recycling of the materials as specified in 6.02(9)(f)-(o) from solid waste in as pure a form as technically feasible.

(16) RESPONSIBILITY OF OWNERS OR DESIGNATED AGENTS OF NON-RESIDENTIAL FACILITIES AND PROPERTIES:

- (a) Owners or designated agents of non-residential facilities and properties shall do all of the following for recycling the materials specified in 6.02(9)(f)-(o):
 1. A Person in the Town of Herman owning or occupying new building or a building that is remodeled or expanded by 50% or more in floor area, shall provide a designated area for separation, temporary storage, and collection of solid waste and recyclables either within or adjacent to the building.
 2. Provide adequate, separate containers for the separated recyclable materials.
 3. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
 4. Provide for the collection of materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
 5. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including name, address, and telephone number.
- (b) The requirements specified in (a) do not apply to the owners or designate agents of nonresidential facilities and properties if the post-consumer waste generated within the dwellings treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling of the materials specified in 6.02(9)(f)-(o) from solid waste in as pure a form as is feasible.

(17) PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS, HAULER LICENSING, REPORTING REQUIREMENTS, RESTRICTIONS, AND PROCESSING FACILITIES:

- (a) No person or hauler may dispose in a landfill or burn in a solid waste facility any recyclable materials as specified in 6.02(9)(f)-(o), generated in the Town of Herman that have been separated for recycling.
- (b) No person or corporation shall engage in the business of hauling recyclables within the Town of Herman without being licensed by the Department of Natural Resources under section NR 502.06, Wis Administrative Code.
- (c) Haulers who collect solid waste or recyclables in the Town of Herman for storage, treatment, processing, marketing, or disposal shall obtain and maintain all necessary municipal and state permits, licenses, and approvals prior to collecting any materials in the Town of Herman.
- (d) Recycling haulers and processors operating in the Town Herman are required to maintain records and report in writing to the town clerk on or by December 31st each year. Reports shall include: the amount of solid waste and recyclables collected and transported from the Town of Herman; the amount of solid waste and recyclables processed and or marketed by item type from the Town of Herman; and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the municipality to revoke any license or sever any contract with the hauler or processor.
- (e) Any hauling contractor operating in the Town of Herman shall not transport for processing any recyclables to a processing facility unless that facility has been approved by the Town of Herman and is certified with the

(18) OWNERSHIP OF RECYCLABLE MATERIALS. Recyclable materials, upon placement at the collection site, shall become the property of the Town of Herman. Recyclable materials, upon collection by any permitted collector, shall become the property of the Town of Herman.

(19) EXEMPTIONS: The Town of Herman reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the Town of Herman or its contractors. The Town of Herman shall provide written notice to its service recipients of this declaration.

(20) ENFORCEMENT:

(a) Any town board member or authorized representative of the town board of the Town of Herman may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, collection sites and facilities, collection areas of multiple family dwellings and non-residential facilities and properties, solid waste disposal facilities and solid waste treatment facilities, and any records relating to recycling or solid waste disposal activities, for the purpose of ascertaining compliance with the provisions of this ordinance. No person may refuse access to any town board member or authorized representative of the Town of Herman who requests access for the purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(b) Penalties for violating this ordinance shall be a penalty as provided in s. 9.04(1) of this code.

CHAPTER 7
ZONING AND TOWN PLANNING
SEPARATE PUBLICATIONS
RESOLUTION

WHEREAS, the Town of Herman has a zoning ordinance which was adopted in 1978; and

WHEREAS, to insure that all land division completed in the Town of Herman comply with the Town Zoning Ordinance

BE IT THEREFORE RESOLVED that all certified survey maps shall be submitted to the Town of Herman Town Board for review and approval based on compliance with the Town of Herman Zoning Ordinance.

Dated this 5TH day of MARCH 1986.

CHAPTER 8

BUILDING REGULATIONS

8.01 Building Permits and Inspections

(1) **AUTHORITY.** These regulations are adopted under the authority granted by s. 101.65, Wisconsin Statutes

(2) **PURPOSE.** The purpose of this ordinance is to promote general health, safety, and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

(3) **INSPECTIONS REQUIRED:**

(a) The construction and remodeling of one- and two-family dwellings in the Town of Herman.

(b) The construction and remodeling of residential outbuildings, garages, and sheds in the Town of Herman.

(4) **WISCONSIN UNIFORM DWELLING CODE ADOPTED.** The Wisconsin Uniform Dwelling Code, Chs. Comm 20-25 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings requiring inspections under this ordinance.

(5) **BUILDING INSPECTOR.** There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Safety & Buildings, as specified by Wisconsin Statutes, Section 101.66(2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing.

(6) **BUILDING PERMIT REQUIRED.** No person shall alter, in excess of \$1,000.00 value in any twelve-month period, build, add onto or alter any building without first obtaining a building permit for such work from the building inspector. Any structural changes or major changes to mechanical systems that involve extensions shall require permits. Restoration or repair of an installation to its previous code-compliant condition as determined by the building inspector is exempted from permit requirements.

(7) **BUILDING PERMIT FEE.** The building permit fees shall be determined by resolution.

(8) **PENALTIES.** The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action.

(a) Any Town Supervisor or authorized representative of the Town Board of the Town of Herman shall be granted access under this ordinance to any building or construction site within the Town of Herman to determine compliance with this section.

(b) Penalties for violating this ordinance shall be a penalty as provided in s. 9.04(1) of this code. Each day of noncompliance shall be considered a separate violation.

8.02 Building Permit Fees

1 – 2 Family Dwellings

New Construction, all inclusive	\$1,100.00
Remodel – requiring inspection	(per inspection) \$75.00
Remodel, Repair – not requiring inspection	\$50.00

Commercial Zoned – Contact DSPS \$400.00

CHAPTER 9

GENERAL PROVISIONS

9.01 Repeal of General Ordinances

(1) All ordinances heretofore adopted by the Town of Herman similar to or in conflict herewith are hereby repealed.

9.02 Effect of Repeals

The repeal or amendment of any section or provision of this code or of any other ordinance or resolution of the Town Board shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the town.
- (3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except that all such proceedings had after the time this code shall take effect, shall be conducted according to the provisions of this code, and shall be, in all respects subject to the provisions of this code.

9.03 Rules of Construction

In the construction of this code of general ordinances, the following, rules shall be observed, unless such construction would be inconsistent with the manifest intent of the ordinance:

- (1) GENDER: SINGULAR and PLURAL - Every word in this code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every work importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.
- (2) PERSONS - The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.
- (3) ACTS BY AGENTS - -When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requisition shall be constructed to include all such acts when done by an authorized agent
- (4) TIME - The time within which an act is to be done, or proceeding, had, or taken shall be computed by excluding the first day and including the last and when any such time is expressed in hours, the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded. If the last day within which an act is to be done, or proceeding had, or taken falls on Sunday, or legal holiday, the act may be done or proceeding had or taken on the next secular day.

9.04 Citation Enforcement of Town Ordinances

- (1) PROVISIONS OF STATE LAW ADOPTED BY REFERENCE: Except as otherwise specifically provided in this Code of Ordinances, the statutory provisions set forth in Section 66.0113 of the Wisconsin Statutes, describing and defining the procedure for municipal citations, are hereby adopted and by reference made a part of this Code as if fully set forth herein. Any further amendments, revisions or modifications of the statutes

incorporated herein are intended to be made a part of this Code in order to secure uniform statewide regulation of the procedure for municipal citations.

- (2) **ADOPTION OF CITATION:** The Town of Herman Municipal Citation is hereby adopted in compliance with the provisions of Wis. Stat. 66.0113. Any citation issued for a violation of a Town of Herman ordinance shall contain the following information:
 - (a) The name, address and (where necessary) the date of birth of the alleged violator
 - (b) A description of the alleged violation
 - (c) The date, time, and place of the violation
 - (d) The ordinance that is alleged to have been violated.
 - (e) The time and date at which the person being cited may appear in the Sheboygan County Circuit Court
 - (f) A statement informing the alleged violator of his or her options under Subsection 9.04(3) of this ordinance
- (3) **STIPULATION OF GUILT OR NO CONTEST:** Stipulations of “Guilty” or “No Contest” may be made by any person to whom a citation has been issued for violation of any town ordinance. Stipulations shall conform to the format contained in Wis. Stat. 66.0113. Stipulations may be accepted within ten (10) days of the issuance of the citation and accepted by the Town Clerk or Town Treasurer.
- (4) **DEPOSIT:** Any person stipulating “Guilty” or “No Contest” under Subsection 9.04(3) of this Code must make the deposit required under Wis. Stat. 66.0113 as determined under Section 9.05 of this Code.
 - (a) Deposits may be brought or mailed to the Town Clerk or Town Treasurer, as directed by the issuing officer or town official.
 - (b) In order for a stipulation to be made the original violation that brought the citation must have been corrected, i.e., building permit acquired, dog(s) licensed, etc. Failing to resolve the violation will void the opportunity to stipulate the violation and will require a court appearance.
 - (c) The Town Board of the Town of Herman shall approve by resolution a “Bond and Deposit Schedule” that shall be filed with the Town Clerk and the Clerk of the Circuit Courts, and thereupon is made a part of this Ordinance by reference.
 - (d) Deposits or forfeited penalties under this Chapter shall be delivered to the Town Clerk or Clerk of Courts as soon as practical.
- (5) **ISSUANCE OF CITATIONS:** As authorized by Wis. Stat. 66.0113(2), any Town Constable may issue citations under this Section. Additionally, the Town Board may, by Resolution, designate other town officials who shall be authorized to issue citations with respect to Town Ordinances which are directly related to the official responsibilities of those officials.

9.05 Penalty Provisions

- (1) **GENERAL PENALTY** - Whenever so provided in this code, any person who shall violate any provisions of this code shall upon conviction of such violation be subject to a penalty, which shall be as follows:
 - A. **First Offense: Penalty** - Any person found guilty of violating any ordinance or part of any ordinance of this code referring to this section, upon conviction thereof, shall forfeit not less than \$1 or more than \$100, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding thirty (30) days.
 - B. **Second Offense: Penalty** - Any person found guilty of violating any ordinance or part of any ordinance of this code referring to this section who shall previously have been convicted of a violation of the same ordinance shall upon conviction thereof, forfeit not less than \$10 nor more than \$200 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not exceed six (6) months.
- (2) **OTHER PENALTY** - Any person found guilty of violating any ordinance or part of any ordinance of this code referring to this section, upon conviction shall forfeit not less than \$100.00 nor more than \$500.00, and in default of payment thereof, shall be imprisoned in the County Jail for a period not exceeded 90 days.

- (3) PENALTY WHERE NONE PROVIDED - A violation of any provisions of this code or of any other ordinance of the Town of Herman which no penalty is expressly provided shall subject the violator to a penalty of not less than \$1.00, nor more than \$100.
- (4) EXECUTION AGAINST DEFENDANTS' PROPERTY - Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the town, the court may, in lieu of ordering imprisonment of the defendant or after the defendant has been released from custody, issuing an execution against the property of the defendant for said forfeiture and costs.
- (5) COSTS AND SENTENCE IN JUDGMENT - Whenever a penalty or forfeiture is imposed as the whole or any part of the punishment of any offense under the provisions of this code, the judgement shall also include the costs of prosecution and shall provide for the imprisonment in the County Jail for default in the payment of such penalty, forfeiture and costs.

9.06 Conflict and Separability

- (1) Conflict Of Provisions - If the provisions of the different chapters of this code conflicts with or contravene with each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
- (2) SEPARABILITY OF CODE PROVISIONS - If any section, subsection, sentence, clause or phrase of this code or any ordinance of the town is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Town Chairman and Town Board of the Town of Herman hereby declares that they would have passed this code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

9.07 Clerk to File Documents Incorporated By Reference

- (1) Whenever in this code any standard, code rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this code, are adopted by reference, they shall be deemed incorporated in this code as if fully set forth herein and the Town Clerk is hereby directed and required to file, deposit and keep in his office a copy of the code, standard rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person, subject to such orders or regulations which the Clerk may prescribe for their preservation.

9.08 Effective Date Citation

- (1) These ordinances shall be known as the "Municipal Code of the Town of Herman" and shall take effect from and after passage and publication. All references thereto shall be cited by section number.

9.09 An Ordinance to Codify the General Ordinances of The Town of Herman

That the code of ordinances in pamphlet form entitled "Municipal Code of the Town of Herman", a copy of which is on file in the office of the Town Clerk in the Herman Town Hall for public inspection, shall be and is hereby adopted as the general ordinances in and for the Town of Herman, Sheboygan County, Wisconsin, up to and including the 7th day of April 1971

This ordinance shall take effect the day after passage and publication as provided by law.

Adopted by the Town Board of the Town of Herman, Sheboygan County, Wisconsin, this 7th day of April 1971

CHAPTER 10

Wind Energy Systems

10.01 Purpose

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Town of Herman, Sheboygan County, Wisconsin. This Ordinance is adopted pursuant to 66.0401, Wis. Stats. and Chapter PSC 128 of the Wisconsin Administrative Code and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

10.02 Definitions

Wind Energy System: Has the meaning given in 66.0403(1)(m), Wis. Stats. and is used to convert wind energy to electrical energy.

Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

10.03 Permit Required

No Wind Energy System may be installed, constructed, or expanded in the Town without a Wind Energy System Permit granted pursuant to this Ordinance.

10.04 Application

Every application for a Wind Energy System Permit shall be made in writing accompanied by any fees required by this Ordinance and shall include the information specified in PSC 128.30(2).

10.05 Accuracy of Information

The applicant/owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

10.06 Duplicate Copies

The applicant/owner shall file an original and three copies of the application with the Town. One copy shall be an electronic copy. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

10.07 Notice to Property Owners and Residents

On the same day an applicant/owner files an application for a Wind Energy System, the applicant/owner shall, under 66.0401(4)(a)3., Wis. Stats., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy shall be provided to the Town. The notification shall include all of those items specified in PSC 128.30(5)1. through 5.

Further, after the Town receives an application for a Wind Energy System, the Town shall publish the notice required by 66.0401(4)(a)(1), Wis. Stats., which shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

10.08 Public Participation

(1) The Town shall make a copy of an application for a Wind Energy System available for public review at a local library and at the Town Hall and the Town website.

- (2) The Town shall accept written public comments on an application for a Wind Energy System filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection (3).
- (3) The Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed Wind Energy System.

10.09 Joint Application Review Process

If a Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

10.10 Application Completeness

The Town incorporates PSC 128.31 into this Ordinance by reference.

10.11 Applicant/Owner Requirements

Pursuant to PSC 128.10(1), the Town incorporates by reference all applicant/owner requirements set forth in Subchapter II of PSC 128.

10.12 Written Decision and Record of Decision

The Town incorporates PSC 128.32(3); PSC 128.34(1); and PSC 128.34(2) into this Ordinance by reference.

10.13 Effect of Ownership Change on Approval

Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide timely notice to the Town of any change of ownership of the Wind Energy System.

10.14 Denial Based on Land Use Map Designations

The Town may deny without a hearing an application for approval of a Wind Energy System with a nominal capacity of at least one (1) megawatt if the proposed site of the Wind Energy System is in an area primarily designed for future residential or commercial development as shown on the map adopted as part of the Town's comprehensive plan on October 3, 2007 or on subsequent such maps adopted by the Town under 66.1001(2)(I), Wis. Stats.

10.15 Fees

- (1) The applicant shall deposit an application fee of \$5,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and process of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts, shall be billed against the deposit. The applicant shall maintain a minimum of \$2,000 in the account until the review process and construction (if approved) is completed. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system.
- (2) The Town's fee or reimbursement requirement under subsection (1) is based on the actual and necessary cost of the review and processing of the Wind Energy System application and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

10.16 Additional Requirements

The requirements in PSC 128.33(1) to (5) are incorporated into this Ordinance as conditions for approval of an application to construct a Wind Energy System.

10.17 Post-Construction Filing Requirement

The Town incorporates PSC 128.34(3) into this Ordinance by reference.

10.18 Modifications to an Approved Wind Energy System

The Town incorporates PSC 128.35(1) allowing “material changes” into this Ordinance by reference. Such changes are subject to the following:

- (1) The Town, upon notice of receiving an application for a material change to a Wind Energy System shall not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
- (2) An application for a material change is subject to PSC 128.30(1), (3) to (5),(6)(a) and (b) and (7) and 128.31 to 128.34.
- (3) An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- (4) The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energysystem.

10.19 Monitoring Compliance

- (1) MONITORING PROCEDURE. The Town may establish a procedure to monitor compliance by the applicant/owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this ordinance. The applicant/owner shall cooperate with the Town during its monitoring.
- (2) THIRD-PARTY INSPECTOR DURING CONSTRUCTION. The Town may require an applicant/owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the applicant/owner’s compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority’s request.

10.20 Notice of Complaint Process

- (1) NOTICE OF PROCESS FOR MAKING COMPLAINTS. Before construction of a Wind Energy System begins, an applicant/owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within one-half (0.5) mile of any Wind Energy System facility. An applicant/owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the applicant/owner, a petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the applicant/owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- (2) NOTICE TO TOWN. An applicant/owner shall provide a copy of the notice provided under subsection (1) to the Town, and the applicant/owner shall keep the contact person and telephone number current and on file with the Town.

10.21 Small Wind Energy Systems

- (1) All of the provisions of this Ordinance apply to Small Wind Energy Systems except for provisions adopted under the following subsections of PSC 128: PSC 128.14(4)(d); 128.15(1)(c), (3)(b) to (e), and (5); 128.16(2) to (4); 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f); 128.19(1)(c) to (e), (3), and (4); 128.30(2)(L) and (m); 128.33(1) to (3m) and (5); 128.34(3); 128.36; 128.40(2)(b) to (e); 128.41; and 128.42.
- (2) The standards in this Ordinance applicable to Wind Energy Systems are modified for Small Wind

Energy Systems as follows:

- A. The pre-application notice shall be filed at least sixty (60) days before an applicant/owner files an application to construct a Small Wind Energy System, and the notice shall be provided only to adjacent landowners and the Town.
- B. Setback distances for Small Wind Energy Systems are as set forth in PSC128.61(3).
- C. An applicant/owner shall provide notice of the requirements of PSC 128.14 only to each adjacent nonparticipating residence or occupied community building before the initial operation of the Small Wind Energy System.
- D. For purposes of PSC 128.19(1), a Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 540-day period.
- E. For purposes of PSC 128.30(2)(g), the information regarding the anticipated effects of the Small Wind Energy System on existing land uses shall only be for parcels adjacent to the Small Wind Energy System.
- F. Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the Small Wind Energy System.
- G. Under PSC 128.30(6)(c) the Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed Small Wind Energy System.

10.22 Revocation

Any permit granted under this Ordinance may be revoked by the Town if the permit holder, its heirs, or assigns, violates a provision of this Ordinance or a provision of a permit granted pursuant to this Ordinance.

10.23 Severability

If any section, subsection, sentence, or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

10.24 Relationship of Parties

By filing an application, the applicant/owner agree that neither the applicant/owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town's approval of any application or permit does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the applicant/owner.

10.25 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance, or covenant, to the extent allowed by law the provisions of this Ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this Ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance, or covenant shall prevail. All references to statutes and regulations in this Ordinance refer to the current version of the statute or regulation referenced, as amended from time to time.

10.26 Guaranty/Warranty

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.