CHAPTER 61

VILLAGES

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61.187 Dissolution. (1) PROCEDURE. Whenever a petition conforming to the requirements of s. 8.40, signed by at least one−third as many electors of any village as voted for village officers at the next preceding election for village officers in that village, shall be presented to the village board, and filed as provided in s. 8.37, praying for dissolution of the village, the village board shall submit to the electors of the village the question whether or not the village shall be dissolved. The question shall be determined by ballot, in substantially the manner provided by ss. 5.64 (2) and 10.02, at a general election or at a special election called by the village board for that purpose.

(2) DATE OF; PROPERTY; CLAIMS; TERRITORY. (a) Subject to par. (c), if two−thirds of the ballots cast at the election under sub. (1) are in favor of dissolution, the village shall, at the expiration of 6 months from the date of the election, cease to be a village.

(c) The territory included within the village at the time of its dissolution shall revert to and become a part of the town or towns from which it was taken or in which it is then located, except that if the town or towns from which all of the village territory was taken is no longer in existence, the village may not dissolve. The assets and liabilities of the village shall be apportioned under s. 66.0235 and, in accordance with that section, all assets and liabilities of the village shall become the assets and liabilities of the town or towns to which the village territory reverts.

(d) If, in accordance with par. (a), the results of the election under sub. (1) provide for dissolution, the village clerk shall, within 10 days after the election, record the petition and determination of the village board of canvassers in the office of the register of deeds of the county or counties in which the village is located and file with the secretary of administration certified copies of the petition and the determination of inspectors of election. The village clerk shall also record in the office of the register of deeds a certificate by the village clerk showing the date on which the dissolution takes effect and file with the secretary of administration 4 copies of the certificate. These documents shall be recorded and indexed by the register of deeds. The index shall include the volume or reel number and the page or image number of the original documents. The secretary of administration shall forward 2 copies of the certificate to the department of transportation and one to the department of revenue.

History: 1977 c. 29 s. 1654 (8) (c); 1977 c. 273; 1989 a. 192; 1993 a. 301; 1999 a. 182; 2001 a. 107; 2005 a. 391; 2015 a. 55.

61.188 Certain villages may become cities by charter ordinance. Any village having a population of 1,000 or more may proceed under s. 66.0101 to organize as a city of the appropriate class. The village may by charter or charter ordinance adopted under s. 66.0101 elect not to be governed by ch. 62 or 66 in whole or in part or may create that system of government considered by the village to be most appropriate. The charter or charter ordinance may include the following: method of election of members of the council by districts, at−large or by a combination of methods, procedure for election of the first common council, creation and selection of all administrative officers, departments, boards and commissions, powers and duties of all officers, boards and commissions and terms of office. The charter or charter ordinance may not alter those provisions of ch. 62 dealing with police and fire departments or chs. 115 to 121 dealing with education. Any village incorporated after August 12, 1959, may not become a city under this section unless it meets the standards for incorporation in ss. 66.0205 and 66.0207.

History: 1999 a. 150 s. 25.

61.189 Villages of 1,000 may become cities. (1) Whenever the resident population of any village exceeds 1,000 as shown by the last federal census or by a census provided for under sub. (3), the village may become a 4th class city, and the trustees of the village may at a regular meeting, by a two−thirds vote of the members thereof, by resolution, so determine. The resolution shall observe the requirements of s. 5.15 (1) and (2) for wards, and shall fix the number and boundary of the aldermanic districts into which the city shall be divided and fix the time for holding the first city election, which shall not be less than 20 days from the date of such resolution, shall designate a polling place for each ward, and shall provide for the appointment of initial inspectors of election in the manner provided in ss. 7.30 and 7.32.

(2) The election shall be noticed and conducted and the result canvassed and certified as in the case of regular village elections and the village clerk shall immediately file with the secretary of administration 4 copies of a certification certifying the fact of holding such election and the result thereof and a description of the legal boundaries of such village or proposed city and 4 certified copies of a plat thereof; and thereupon a certificate of incorporation shall be issued to such city by the secretary of administration. Two copies of the certification and plat shall be forwarded by the secretary of administration to the department of transportation and one copy to the department of revenue. Thereafter such city shall in all things be governed by the general city charter law. All debts, obligations and liabilities existing against such village at the time of such change shall continue and become like debts, obligations and liabilities against such city, and such city may carry out and complete all proceedings then pending for the issue of bonds for improvements therein.

(3) If the last federal census figures are not used the village trustees shall cause to be taken an accurate census of the resident population of the village on some day not more than 10 weeks previous to the time of the adoption of such resolution, exhibiting the name of every head of a family and the name of every person a resident in good faith on such day and the lot on which that person resides, which shall be verified by the affidavit of the person taking the same affixed thereto. The original of such census shall be filed in the office of the village clerk and a duly verified copy filed with the clerk of the circuit court of the county wherein such village is situated.

(4) Any village incorporated after August 12, 1959, may not become a city unless it meets the standards for incorporation in ss. 66.0205 and 66.0207.

History: 1971 c. 304, 336; 1977 c. 29 s. 1654 (8) (c); 1981 c. 4 s. 19; 1981 c. 390; 1983 a. 484; 1985 a. 304 s. 156; 1991 a. 316; 1999 a. 150 s. 672; 2015 a. 55.

61.19 Annual elections; appointments. At the annual spring election in each village in odd−numbered years, except as otherwise provided herein, there shall be chosen: A president, a clerk, a treasurer, an assessor if election of the assessor is provided and a constable. In villages in counties having a population of 500,000 or more, the officers named shall be elected for a term of 2 years on the first Tuesday of April of each even−numbered year. Any other officers shall be appointed annually by the village board at their first meeting after the first Tuesday in April unless the board otherwise provides. No person not a resident elector in such village shall be elected to any office therein. The village clerk may appoint a deputy clerk for whom the clerk shall be responsible, and who shall take and file the oath of office, and in case of the absence, sickness or other disability of the clerk, may perform the clerk's duties and receive the same compensation unless the village board appoints a person to act as such clerk. No assessor shall be elected or appointed if the village has come within the jurisdiction of a county assessor under s. 70.99.

History: 1973 c. 90; 1991 a. 316; 1995 a. 16 s. 2.

61.191 Population, use of federal census. Except as provided in s. 61.189 (3), where the census of a village is required the last federal census, including a special federal census, if any, shall be used.

61.193 Establishing and changing compensation for elective offices. (1) In this section, "compensation" means a salary, a per diem compensation for each day or part of a day necessarily devoted to the service of the village and the discharge of duties, or a combination of salary and per diem compensation.

(2) Except as provided in sub. (3), and subject to s. 61.32, the compensation for an elective village office shall be established before the earliest time for filing nomination papers for the office or, if nomination papers are not used, before the caucus date determined under s. 8.05 (1) (a). After that time or date, no change may be made in the compensation for the office that applies to the term of office for which the deadline or date applies. The compensation established for an elective office remains in effect for ensuing terms unless changed.

(3) In a newly incorporated village, the compensation for an elective office may be established during the first term of office.

History: 2009 a. 173.

61.195 Discontinuance and change of term of offices. Any village may proceed pursuant to s. 66.0101 to discontinue the office of marshal or constable, to change the method of selection of or tenure of any officer other than members of the village board, to consolidate any such office or to change the term of office of members of the village board.

History: 1999 a. 150 s. 672.

61.197 Selection of officers. (1) Officers other than members of the village board and municipal judges except as provided in s. 61.65, shall be selected by one of the following methods:

(a) Appointment by the village president.

(b) Appointment by the village president subject to confirmation by the village board.

(c) Appointment by the village board.

(d) Election by the voters of those officers so enumerated in s. 61.19, unless otherwise provided pursuant to s. 61.195.

(e) Selection under any of the above methods, the selection to be from an eligible list established pursuant to s. 66.0509.

(f) A corporation or an independent contractor may be appointed as the village assessor. The corporation or independent contractor so appointed shall designate the person responsible for the assessment. The designee shall file the official oath under s. 19.01, and sign the affidavit of the assessor attached to the assessment roll under s. 70.49. No person may be designated by any corporation or independent contractor unless he or she has been granted the appropriate certification under s. 73.09. For purposes of this subsection, "independent contractor" means a person who either is under contract to furnish appraisal and assessment services or is customarily engaged in an independently established trade, business or profession in which the services are offered to the general public.

(2) Such officers shall continue to be selected in the manner prevailing on April 15, 1939, provided one of the above plans was in force on that date. Such method shall be continued until changed in the manner provided by s. 66.0101. However, any village may require that selection be made from an eligible list as specified under sub. (1) (e) by the enactment of an ordinary ordinance.

History: 1973 c. 90; 1977 c. 305 s. 64; 1979 c. 221; 1999 a. 150 s. 672.

61.20 Election of trustees; terms; number. (1) Villages shall have 6 trustees, except as provided otherwise in sub. (3), whose term of office shall be 2 years, 3 of whom shall be elected each year.

(3) Villages having a population of 350 or less shall have 2 trustees, who together with the president shall constitute the village board, a majority of whom shall constitute a quorum. One trustee shall be elected each year for a term of 2 years.

(4) Any village may by ordinance change the number of trustees, but such change in the number of trustees shall not affect the term of office of trustees elected prior to the adoption of such ordinance authorizing such change.

61.21 Clerk to notify officers−elect; oath of office. Within 5 days after the election or appointment of any village officer the village clerk shall notify the person so selected thereof, and every person elected or appointed to any office named in s. 61.19 shall within 5 days after notice of election or appointment take and file the official oath, except that an elected assessor shall take and file the official oath within 5 days before June 1.

History: 1981 c. 20; 1983 a. 484.

61.22 Official bonds; officers not to be sureties. Every bond required of a village officer shall be executed with sufficient

sureties in a sum fixed by the village board when not otherwise prescribed and be approved by the president. Whenever the village board deems any bond insufficient they may require an additional bond to be executed and filed in a sum and within a time not less than 10 days, to be fixed by them. The village board may provide a schedule or blanket bond that includes any or all village officers or officials.

History: 2003 a. 204.

61.23 Terms; temporary vacancy. (1) Except as otherwise provided by law, the term of office of all village officers is 2 years. Persons serving in appointive offices shall serve until their respective successors are appointed and qualify, unless otherwise provided by ordinance. If any officer other than a trustee is absent or temporarily incapacitated from any cause the board may appoint some person to discharge the officer's duties until the officer returns or until such disability is removed. If a trustee is temporarily incapacitated because of physical or mental disability, the board may appoint a person to discharge the trustee's duties until the disability is removed.

(2) The regular term of office of village president and trustees shall commence on the 3rd Tuesday of April in the year of their election. The regular terms of other officers shall commence on May 1 succeeding their election unless otherwise provided by ordinance or statute.

History: 1983 a. 484; 1997 a. 257; 2009 a. 173.

61.24 President. The president shall be by virtue of the office a trustee and preside at all meetings of the board and have a vote as trustee, sign all ordinances, rules, bylaws, regulations, commissions, licenses and permits adopted or authorized by the board and all orders drawn on the treasury except as provided by s. 66.0607. The president shall maintain peace and good order, see that the ordinances are faithfully obeyed, and in case of disturbance, riot or other apparent necessity appoint as many special marshals as the president shall deem necessary, who for the time being shall possess all the powers and rights of constables. The president shall have charge of the village jail, which the president shall conduct in the manner provided in s. 62.09 (13) (c); but the president may delegate this duty to the constable or any police officer of the village.

History: 1979 c. 323 s. 33; 1991 a. 316; 1999 a. 150 s. 672.

61.25 Clerk. The village clerk shall execute and file an official bond. It shall be the village clerk's duty:

(1) To perform any duties prescribed by law relative to elections, to keep subject to inspection all election returns required to be filed in the clerk's office, and to notify persons elected or appointed to village offices.

(2) To transmit to the county clerk, within 10 days after election or appointment and qualification, a certified statement of the name and term for which elected or appointed, of the president, clerk, treasurer and assessor; and to the clerk of the circuit court immediately after their election or appointment and qualification, a like statement of the time and term for which elected or appointed of every municipal judge, chief of police, marshal or constable of the village.

(3) To attend all meetings of the village board; to record and sign the proceedings thereof and all ordinances, rules, bylaws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purpose to keep the following books: A minute book, in which shall be recorded in chronological order full minutes of all elections, general or special, and the statements of the inspectors thereof; full minutes of all the proceedings of the board of trustees; the titles of all ordinances, rules, regulations and bylaws, with reference to the book and page where the same may be found. An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations and bylaws. A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and sources thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in either such other matters as the board prescribes, and such other books as the board directs.

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

(5) To be the custodian of the corporate seal, and to file as required by law and to safely keep all records, books, papers or property belonging to, filed or deposited in the clerk's office, and deliver the same to the clerk's successor when qualified; to permit, subject to subch. II of ch. 19, any person with proper care to examine and copy any of the same, and to make and certify a copy of any thereof when required, on payment of the same fees allowed town clerks therefor.

(6) To draw and countersign all orders on the village treasury ordered by the board and none other.

(6m) To stamp or endorse street trade permits at the request of an employer under s. 103.25 (3m) (b).

(6p) To stamp or endorse traveling sales crew worker permits at the request of an employer under s. 103.34 (11) (c).

(8) To make and deliver to the village treasurer a tax roll and to make and transmit to the county treasurer, on forms provided by the department of revenue, a statement showing the total amount of all taxes levied in the village.

(9) To perform all other duties required by law or by any ordinance or other direction of the village board.

(10) To notify the treasurer of the county in which the village is located, by February 20, of the proportion of property tax revenue and of the credits under s. 79.10 that is to be disbursed by the taxation district treasurer to each taxing jurisdiction located in the village.

History: 1977 c. 305 s. 64; 1983 a. 395; 1985 a. 39 s. 17; 1989 a. 113; 1991 a. 39, 316; 2001 a. 107; 2003 a. 47; 2009 a. 3.

NOTE: 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

Cross−reference: See s. 66.0609 for an alternative system of approving claims under sub. (6).

61.26 Treasurer. The village treasurer shall:

(1) Execute and file an official bond which may be furnished by a surety company as provided by s. 632.17 (2).

(2) Except as provided in s. 66.0608, receive all moneys belonging or accruing to the village or directed by law to be paid to the treasurer.

(3) Except as provided in s. 66.0608, deposit upon receipt the funds of the village in the name of the village in the public depository designated by the board. Failure to comply with this subsection shall be prima facie grounds for removal from office. When the money is deposited, the treasurer and bonders are not liable for the losses defined by s. 34.01 (2), and the interest shall be paid into the village treasury.

(4) Pay money only on the written order of the president, countersigned by the clerk and specifying the number thereof, the payee and the amount and the object for which drawn.

(5) Keep just and accurate detailed accounts of all transactions under sub. (4), showing when, to whom and for what purpose all payments are made, in books provided by the village board, and preserve all vouchers filed in the office.

(6) Render an account and settlement of all official transactions to the board at its last meeting prior to the annual election, and at all other times when required by the board.

(7) Deliver to the successor when qualified all books of account, papers and property of the office and all money on hand as treasurer.

(8) Perform other duties as are required by law or the village board.

(9) Keep but one fund in the treasury, except as otherwise provided.

(10) Execute the bond required by s. 70.67 and take receipt therefor, which the treasurer shall file in the office of the village clerk.

(11) On receipt of the tax roll, and while acting as collector of taxes, exercise the same powers and perform the same duties as are by law conferred upon and required of town treasurers while acting in that capacity, and be subject to the same penalties and liabilities.

History: 1971 c. 154; 1975 c. 375 s. 44; 1975 c. 421; 1983 a. 36; 1983 a. 189 s. 329 (21); 1983 a. 395 ss. 9, 18; 1983 a. 532 s. 36; 1985 a. 29; 1987 a. 27, 378; 2001 a. 16.

61.261 Deputy village treasurer. The village treasurer, subject to approval by a majority of all the members of the village board, may in writing, filed in the office of the clerk, appoint a deputy who shall act under the treasurer's direction and who during the temporary absence or disability of the treasurer or during a vacancy in such office shall perform the duties of treasurer. The deputy shall receive such compensation as the village board shall determine. The acts of such deputy shall be covered by official bond as the village board shall direct.

History: 1991 a. 316.

61.27 Assessor. In all villages not assessed by a county assessor the assessor shall take and file the official oath. The assessor shall begin under s. 70.10 to make an assessment of all of the property in the village liable to taxation, as prescribed by law. The assessor shall return the assessment roll to the village clerk at the same time and in the same manner in which town assessors are required to do. The assessor's compensation shall be fixed by the village board. No person may assume the office of village assessor unless certified by the department of revenue under s. 73.09 as qualified to perform the functions of the office of assessor. If a person who has not been so certified is elected to the office, the office shall be vacant and the appointing authority shall fill the vacancy from a list of persons so certified by the department of revenue.

History: 1975 c. 39, 199; 1979 c. 221; 1989 a. 56.

61.28 Marshal. (1) The village marshal shall execute and file an official bond. The marshal shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon constables, and be taken as included in all writs and papers addressed to constables. The marshal shall obey all lawful written orders of the village board. The marshal is entitled to the same fees prescribed for sheriffs in s. 814.70 for similar services, unless a higher fee is applicable under s. 814.705 (1) (c); for other service rendered the village, compensation as the board fixes.

(2) A village marshal who is given law enforcement duties by the village board, and who meets the definition of a law enforcement officer under s. 165.85 (2) (c), shall comply with the minimum employment standards for law enforcement officers established by the law enforcement standards board and shall complete training under s. 165.85 (4) (a) 1.

History: 1975 c. 41, 199; 1981 c. 317; 1987 a. 181; 1997 a. 27; 2013 a. 214.

61.29 Constable. (1) A constable shall:

(a) Execute and file an official bond.

(b) Serve within his or her county any writ, process, order or notice, and execute any order, warrant or execution lawfully directed to or required by any court or officer to be executed by the constable.

(c) Attend any session of the circuit court in his or her county when required by the sheriff.

(d) Inform the district attorney of all trespasses on public lands of which the constable has knowledge or information.

(e) Impound cattle, horses, sheep, swine and other animals at large on the highways in violation of a village ordinance.

(f) Cause to be prosecuted all violations of law of which the constable has knowledge or information.

(g) Perform all other duties required by law.

(h) Keep his or her office in the village. No constable who keeps his or her office outside the limits of the village may receive fees for any service performed during the period the outside office is maintained.

(2) Section 60.351 applies to village constables.

(3) A village constable who is given law enforcement duties by the village board, and who meets the definition of a law enforcement officer under s. 165.85 (2) (c), shall comply with the minimum employment standards for law enforcement officers established by the law enforcement standards board and shall complete training under s. 165.85 (4) (a) 1.

History: 1983 a. 532; 2013 a. 214.

61.31 Peace officers, powers. Every village police officer shall possess the powers, enjoy the privileges, and be subject to the liabilities conferred and imposed by law upon village marshals.

History: 2009 a. 173.

61.32 Village board; meeting; salaries. The trustees of each village shall constitute a board designated the "Village Board of" (name of village) in which shall be vested all the powers of the village not specifically given some other officer. A majority of the members−elect shall constitute a quorum, but a less number may adjourn from time to time. The president shall preside at all meetings when present. In the president's absence the board may select another trustee to preside. Regular meetings shall be held at such time as may be prescribed by their bylaws. Special meetings may be called by any 2 trustees in writing, filed with the clerk, who shall thereupon seasonably notify all the trustees of the time and place thereof in the manner directed by the bylaws. All meetings shall be open to the public. The board shall keep a record of all its proceedings, and if there is a newspaper published in any village, the board shall cause the proceedings to be published therein as a class 1 notice, under ch. 985. The proceedings for the purpose of publication shall include the substance of every official action taken by the governing body. If there is no newspaper published in the village, the board may cause the proceedings to be published in a newspaper having general circulation in the village, posted in several public places or publicized in some other fashion, in such manner as the board directs. Nothing herein shall be construed as requiring the republication of any proceeding, ordinance or other matter or thing which has already been published according to law, nor shall anything herein be construed to relieve any village from publishing any proceeding, ordinance or other matter or thing required by law to be published. Notwithstanding the provisions of s. 985.08 (4), the fee for any such publication shall not exceed the rates specified in s. 985.08 (1). The board has power to preserve order at its meetings, compel attendance of trustees and punish nonattendance and it shall be judge of the election and qualification of its members. The president and board of trustees of any village, whether operating under general or special law, may by a three−fourths vote of all the members of the village board determine that a salary be paid the president and trustees.

History: 1991 a. 316; 2009 a. 173.

61.325 Trustee may be appointed president. A village trustee shall be eligible for appointment as village president to fill an unexpired term.

61.34 Powers of village board. (1) GENERAL GRANT. Except as otherwise provided by law, the village board shall have the management and control of the village property, finances, highways, streets, navigable waters, and the public service, and shall have power to act for the government and good order of the village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment, and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

(2) COOPERATION WITH OTHER MUNICIPALITIES. The village board, in behalf of the village, may join with other villages or cities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees.

(3) ACQUISITION AND DISPOSAL OF PROPERTY. The village board may acquire property, real or personal, within or outside the village, for parks, libraries, recreation, beautification, streets, water systems, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas, and for any other public purpose; may acquire real property within or contiguous to the village, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and may sell and convey such property. Condemnation shall be as provided by ch. 32.

(3m) ACQUISITION OF EASEMENTS AND PROPERTY RIGHTS. Confirming all powers granted to the village board and in furtherance thereof, the board is expressly authorized to acquire by gift, purchase or condemnation under ch. 32 any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with the land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under ss. 61.35 and 62.23; and may sell and convey such easements or property rights when no longer needed for public use or protection.

(4) VILLAGE FINANCES. The village board may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the village finances. The village board may loan money to any school district located within the village or within which the village is wholly or partially located in such sums as are needed by such district to meet the immediate expenses of operating the schools thereof, and the board of the district may borrow money from such village accordingly and give its note therefor. No such loan shall be made to extend beyond August 30 next following the making thereof or in an amount exceeding one−half of the estimated receipts for such district as certified by the state superintendent of public instruction and the local school clerk. The rate of interest on any such loan shall be determined by the village board.

(5) CONSTRUCTION OF POWERS. For the purpose of giving to villages the largest measure of self−government in accordance with the spirit of article XI, section 3, of the constitution it is hereby declared that this chapter shall be liberally construed in favor of the rights, powers and privileges of villages to promote the general welfare, peace, good order and prosperity of such villages and the inhabitants thereof.

History: 1983 a. 192; 1987 a. 395; 1995 a. 27, 378; 1997 a. 27.

Cross−reference: See s. 118.105 for control of traffic on school premises.

When a municipality's power to contract is improperly or irregularly exercised and the municipality receives a benefit under the contract, it is estopped from asserting the invalidity of the contract. Village of McFarland v. Town of Dunn, 82 Wis. 2d 469, 263 N.W.2d 167 (1978).

A village was authorized under ss. 30.77 (3) and 61.34 (1) to enact an ordinance granting exclusive temporary use of a portion of a lake for public water exhibition licensees. State v. Village of Lake Delton, 93 Wis. 2d 78, 286 N.W.2d 622 (Ct. App. 1979).

The delegation of village powers to a non−governmental entity is discussed. Save Elkhart Lake v. Elkhart Lake Village, 181 Wis. 2d 778, 512 N.W.2d 202 (Ct. App. 1993).

The state regulatory scheme for tobacco sales preempts municipalities from adopting regulations that are not in strict conformity with those of the state. U.S. Oil, Inc. v. City of Fond du Lac, 199 Wis. 2d 333, 544 N.W.2d 589 (Ct. App. 1995), 95−0213.

It was not a violation of this section, s. 236.45, or the public purpose doctrine for a municipality to assume the dual role of subdivider of property it owned and reviewer of the plat under ch. 236. Town of Beloit v. Rock County, 2001 WI App 256, 249 Wis. 2d 88, 637 N.W.2d 71, 00−1231.

Affirmed on other grounds, 2003 WI 8, 259 Wis. 2d 37, 657 N.W.2d 344, 00−1231.

One who deals with a municipality does so at his or her own risk and may be subject to any provisions of law that might prevent him or her from being paid by a municipality even though the services are rendered. Unless the power to bind the municipality financially has been specifically delegated, the only entity with the statutory authority to contract is the municipality. Holzbauer v. Safway Steel Products, Inc. 2005 WI App 240, 288 Wis. 2d 250, 711 N.W.2d 672, 04−2058.

The line distinguishing general police power regulation from zoning ordinances is far from clear. The question of whether a particular enactment constitutes a zoning ordinance is often a matter of degree. Broad statements of the purposes of zoning and the purposes of an ordinance are not helpful in distinguishing a zoning ordinance from an ordinance enacted pursuant to non−zoning police power. The statutorily enumerated purposes of zoning are not the exclusive domain of zoning regulation. A more specific and analytically helpful formulation of the purpose of zoning, at least in the present case, is to separate incompatible land uses. Multiple factors are considered and discussed. Zwiefelhofer v. Town of Cooks Valley, 2012 WI 7, 338 Wis. 2d 488, 809 N.W.2d 362, 10−2398.

State statutory enabling legislation is required to authorize enactment of typical rent control ordinances. 62 Atty. Gen. 276.

Local units of government may not create and accumulate unappropriated surplus funds. However, a local unit of government may maintain reasonable amounts necessary in the exercise of sound business principles to meet the immediate cash flow needs of the municipality during the current budgetary period or to accumulate needed capital in non−lapsing funds to finance specifically identified future capital expenditures. 76 Atty. Gen. 77.

Article VIII, section 5 restricts the state from levying taxes to create a surplus having no public purpose. Although the constitutional provision does not apply directly to municipalities, the same limitation applies indirectly to them because the state cannot delegate more power than it has. 76 Atty. Gen. 77.

Conflicts between state statutes and local ordinances in Wisconsin. 1975 WLR 840.

61.342 Direct legislation. The provisions of s. 9.20, relating to direct legislation, shall be applicable to villages.

History: 1989 a. 273.

61.345 Recycling or resource recovery facilities. A village may establish and require use of facilities for the recycling of solid waste or for the recovery of resources from solid waste as provided under s. 287.13.

History: 1983 a. 27; 1989 a. 335 s. 89; 1995 a. 227.

61.35 Village planning. Section 62.23 applies to villages, and the powers and duties conferred and imposed by s. 62.23 upon mayors, councils and specified city officials are hereby conferred upon presidents, village boards, and village officials performing duties similar to the duties of such specified city officials, respectively. Any ordinance or resolution passed prior to May 30, 1925, by any village board under s. 61.35, 1923 stats., shall remain in effect until repealed or amended by such village board.

History: 1981 c. 390.

The line distinguishing general police power regulation from zoning ordinances is far from clear. The question of whether a particular enactment constitutes a zoning ordinance is often a matter of degree. Broad statements of the purposes of zoning and the purposes of an ordinance are not helpful in distinguishing a zoning ordinance from an ordinance enacted pursuant to non−zoning police power. The statutorily enumerated purposes of zoning are not the exclusive domain of zoning regulation. A more specific and analytically helpful formulation of the purpose of zoning, at least in the present case, is to separate incompatible land uses. Multiple factors are considered and discussed. Zwiefelhofer v. Town of Cooks Valley, 2012 WI 7, 338 Wis. 2d 488, 809 N.W.2d 362, 10−2398.

61.351 Zoning of wetlands in shorelands. (1) DEFINITIONS. As used in this section:

(a) "Shorelands" has the meaning specified under s. 59.692 (1) (b).

(b) "Wetlands" has the meaning specified under s. 23.32 (1).

(2) FILLED WETLANDS. Any wetlands which are filled prior to the date on which a village receives a final wetlands map from the department of natural resources in a manner which affects their characteristics as wetlands are filled wetlands and not subject to an ordinance adopted under this section.

(2m) CERTAIN WETLANDS ON LANDWARD SIDE OF AN ESTABLISHED BULKHEAD LINE. Any wetlands on the landward side of a bulkhead line, established by the village under s. 30.11 prior to May 7, 1982 and between that bulkhead line and the ordinary high−water mark are exempt wetlands and not subject to an ordinance adopted under this section.

(3) ADOPTION OF ORDINANCE. To effect the purposes of s. 281.31 and to promote the public health, safety and general welfare, each village shall zone by ordinance all unfilled wetlands of 5 acres or more which are shown on the final wetland inventory maps prepared by the department of natural resources for the vil-

lage under s. 23.32, which are located in any shorelands and which are within its incorporated area. A village may zone by ordinance any unfilled wetlands which are within its incorporated area at any time.

(4) VILLAGE PLANNING. (a) *Powers and procedures.* Except as provided under sub. (5), s. 61.35 applies to ordinances and amendments enacted under this section.

(b) *Impact on other zoning ordinances.* If a village ordinance enacted under s. 61.35 affecting wetlands in shorelands is more restrictive than an ordinance enacted under this section affecting the same lands, it continues to be effective in all respects to the extent of the greater restrictions, but not otherwise.

(5) REPAIR AND EXPANSION OF EXISTING STRUCTURES PERMITTED. Notwithstanding s. 62.23 (7) (h), an ordinance adopted under this section may not prohibit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of an ordinance adopted under this section or any environmental control facility in existence on the effective date of an ordinance adopted under this section related to that structure.

(5m) RESTORATION OF CERTAIN NONCONFORMING STRUCTURES. (a) Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance adopted under this section may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to par. (b), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:

1. The nonconforming structure was damaged or destroyed on or after March 2, 2006.

2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(b) An ordinance adopted under this section to which par. (a) applies shall allow for the size of a structure to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

(6) FAILURE TO ADOPT ORDINANCE. If any village does not adopt an ordinance required under sub. (3) within 6 months after receipt of final wetland inventory maps prepared by the department of natural resources for the village under s. 23.32, or if the department of natural resources, after notice and hearing, determines that a village adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives of s. 281.31 (1), the department of natural resources shall adopt an ordinance for the village. As far as applicable, the procedures set forth in s. 87.30 apply to this subsection.

History: 1981 c. 330; 1995 a. 201, 227; 2005 a. 112.

Cross−reference: See also ch. NR 117, Wis. adm. code.

61.352 Required notice on certain approvals. (1) In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) (a) Except as provided in par. (b), a village that issues a building permit or other approval for construction activity, shall give the applicant a written notice as specified in subs. (3) and (4) at the time the building permit is issued.

(b) 1. A village is not required to give the notice under par. (a) at the time that it issues a building permit if the village issues the building permit on a standard building permit form prescribed by the department of safety and professional services.

2. A village is not required to give the notice under par. (a) at the time that it issues a building permit or other approval if the building permit or other approval is for construction activity that does not involve any land disturbing activity including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land.

(3) Each notice shall contain the following language: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(4) The notice required in sub. (2) (a) shall contain the electronic Web site address that gives the recipient of the notice direct contact with that Web site.

(5) A village in issuing a notice under this section shall require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

History: 2009 a. 373; 2011 a. 32.

61.353 Zoning of annexed or incorporated shorelands. (1) In this section:

(a) "Principal building" means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

(b) "Shorelands" has the meaning given in s. 59.692 (1) (b).

(c) "Shoreland setback area" has the meaning given in s. 59.692 (1) (bn).

(2) Every village shall, on or before July 1, 2014, enact an ordinance that applies to all of the following shorelands:

(a) A shoreland that was annexed by the village after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under s. 59.692.

(b) For a village that incorporated after April 30, 1994, under s. 66.0203, 66.0211, or 66.0213, a shoreland that before incorporation by the village was part of a town that was subject to a county shoreland zoning ordinance under s. 59.692.

(3) A village ordinance enacted under this section shall accord and be consistent with the requirements and limitations under s. 59.692 (1d), (1f), and (1k) and shall include at least all of the following provisions:

(a) A provision establishing a shoreland setback area of at least 50 feet from the ordinary high−water mark, except as provided in par. (b).

(b) A provision authorizing construction or placement of a principal building within the shoreland setback area established under par. (a) if all of the following apply:

1. The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

2. The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high−water mark, whichever distance is greater.

(5) Provisions of a county shoreland zoning ordinance under s. 59.692 that were applicable, prior to annexation, to any shoreland annexed by a village after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing village until the effective date of an ordinance enacted by the village under sub. (2).

(6) Provisions of a county shoreland zoning ordinance under s. 59.692 that were applicable prior to incorporation to any shoreland that is part of a town that incorporates as a village under s. 66.0203, 66.0211, or 66.0213 after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated village until the effective date of an ordinance enacted by the village under sub. (2).

(7) An ordinance enacted under sub. (2) does not apply to lands adjacent to an artificially constructed drainage ditch, pond, or stormwater retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural navigable water body.

History: 2013 a. 80; 2015 a. 55.

61.354 Construction site erosion control and storm water management zoning. (1) DEFINITION. As used in this section, "department" means the department of natural resources.

(2) AUTHORITY TO ENACT ORDINANCE. To effect the purposes of s. 281.33 and to promote the public health, safety and general welfare, a village may enact a zoning ordinance, that is applicable to all of its incorporated area, for construction site erosion control at sites described in s. 281.33 (3) (a) 1. a. and b. and for storm water management. This ordinance may be enacted separately from ordinances enacted under s. 61.35. An ordinance enacted under this subsection is subject to the strict conformity requirements under s. 281.33 (3m).

(4) APPLICABILITY OF VILLAGE ZONING PROVISIONS. (a) Except as otherwise specified in this section, s. 61.35 applies to any ordinance or amendment to an ordinance enacted under this section.

(b) Variances and appeals regarding construction site erosion control and storm water management regulations under this section are to be determined by the board of appeals or similar agency for that village. To the extent specified under s. 61.35, procedures under s. 62.23 (7) (e) apply to these determinations.

(c) An ordinance enacted under this section supersedes all provisions of an ordinance enacted under s. 61.35 that relate to construction site erosion control at sites described in s. 281.33 (3) (a) 1. a. and b. or to storm water management regulation.

(5) APPLICABILITY OF COMPREHENSIVE ZONING PLAN OR GENERAL ZONING ORDINANCE. Ordinances enacted under this section shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable to the enacting villages, so far as practicable.

(6) APPLICABILITY OF LOCAL SUBDIVISION REGULATION. All powers granted to a village under s. 236.45 may be exercised by it with respect to construction site erosion control at sites described in s. 281.33 (3) (a) 1. a. and b. or with respect to storm water management regulation, if the village has or provides a planning commission or agency.

(7) APPLICABILITY TO LOCAL GOVERNMENTS AND AGENCIES. An ordinance enacted under this section is applicable to activities conducted by a unit of local government and an agency of that unit of government. An ordinance enacted under this section is not applicable to activities conducted by an agency, as defined under s. 227.01 (1) but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2).

(8) INTERGOVERNMENTAL COOPERATION. (a) Except as provided in par. (c), s. 66.0301 applies to this section, but for the purposes of this section any agreement under s. 66.0301 shall be effected by ordinance.

(b) If a village is served by a regional planning commission under s. 66.0309 and if the commission consents, the village may empower the commission by ordinance to administer the ordinance enacted under this section throughout the village, whether or not the area otherwise served by the commission includes all of that village.

(c) If a village is served by the Dane County Lakes and Watershed Commission, and if the commission consents, the village may empower the commission by ordinance to administer the ordinance enacted under this section throughout the village, whether or not the area otherwise served by the commission includes all of that village. Section 66.0301 does not apply to this paragraph.

History: 1983 a. 416; 1983 a. 538 s. 271; 1989 a. 31, 324; 1993 a. 16; 1995 a. 227; 1999 a. 150 s. 672; 2013 a. 20.

61.36 Streets, sidewalks, sewers and watercourses. Without limitation because of enumeration, the village board may lay out, open, change, widen or extend roads, streets, alleys, sanitary and storm sewers, water mains, parks and other public grounds, and improve, repair or discontinue the same or any part thereof, including lighting and tree planting, and may establish and open and construct drains, canals or sewers and alter, widen or straighten watercourses; may build, alter, repair or otherwise improve or vacate or discontinue sidewalks and crosswalks; and may build and maintain roads and sidewalks required to connect the village with any transportation terminal or village property outside of its limits.

61.39 Service pipes and sewers. The provisions of s. 62.16 (2), relating to service pipes, and s. 62.18, relating to sewers, shall be applicable to villages.

61.44 Railroads, dust prevention. The village board may require any railroad company to cause its roadbed within the limits of the village, to a distance of one foot outside each rail, to be sprinkled with water or to be oiled in such manner as to prevent dust from arising therefrom.

History: 1985 a. 187.

61.46 Village taxes. (1) GENERAL; LIMITATION. The village board shall, on or before December 15 in each year, by resolution to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in such village for the current year. Before levying any tax for any specified purpose, exceeding one percent of the assessed valuation aforesaid, the village board shall, and in all other cases may in its discretion, submit the question of levying the same to the village electors at any general or special election by giving 10 days' notice thereof prior to such election by publication in a newspaper published in the village, if any, and if there is none, then by posting notices in 3 public places in said village, setting forth in such notices the object and purposes for which such taxes are to be raised and the amount of the proposed tax. The village board shall file the question as provided in s. 8.37.

(2) HIGHWAY. The village board shall, at the same time and in like manner, determine the amount, if any, of highway tax to be levied and collected in such village for the current year. Such highway tax shall thereafter be assessed and collected by the village treasurer at the time and in the manner provided for the collection of other village taxes; and such highway tax shall be kept as a separate fund, and shall be expended under the direction of the village board in the improvement of the streets, highways and bridges in said village.

History: 1973 c. 90, 333; 1975 c. 39, 80, 224; 1977 c. 113 ss. 1, 6; 1977 c. 142; 1977 c. 203 s. 101; 1977 c. 418 ss. 389 to 394, 929 (42); 1979 c. 34; 1979 c. 175 s. 51; 1981 c. 20, 61, 93; 1983 a. 27; 1985 a. 29; 1999 a. 182.

61.47 Street and sidewalk improvement tax. For the purpose of improving the streets, making and improving sidewalks and crosswalks and setting out shade and ornamental trees in such village, the board may levy a tax in addition to the highway tax provided for in s. 61.46 (2), and the amount fixed shall be levied, certified and collected as provided in these statutes. All moneys so collected shall be paid to the village treasurer and expended under the direction of the board of trustees.

History: 1985 a. 29.

61.48 County aid for construction and repair of bridges and culverts. Any village may elect to become subject to all of the provisions of s. 82.08 by a resolution adopted by a two−thirds majority vote of all of the members of the village board. The election to become subject to s. 82.08 shall be effective when a certified copy of the resolution is filed with the county board and a majority of the towns and villages in the county that are already subject to s. 82.08 vote to approve the village's election. Until the village ceases to be subject to s. 82.08, the words "town" and "town board" as used in s. 82.08 shall also apply to the

village and its village board. A village that has become subject to s. 82.08 may cease to be subject to that section by the adoption of a resolution and its approval in the same manner as the village became subject to that section.

History: 2003 a. 214 s. 146.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

61.50 Ordinances; contracts; other instruments; how executed. (1) PUBLICATION OF NOTICE OF ORDINANCES. Every contract, conveyance, commission, license or other written instrument shall be executed on the part of the village by the president and clerk, unless otherwise provided by resolution or ordinance, sealed with corporate seal, and in pursuance only of authority therefor from the village board. All ordinances and bylaws shall be signed by the president and countersigned by the clerk; and, if any penalty or forfeiture is thereby imposed, the ordinance or bylaw shall be published either in its entirety, as a class 1 notice, under ch. 985, or as a notice, as described under sub. (3) (b), and shall take effect on the day after the publication or a later date if expressly prescribed. If there is no newspaper published in the village, the village board may in lieu of newspaper publication have copies of the ordinances and bylaws posted in at least 3 public places in said village, and proof thereof filed and recorded by the village clerk, and the same shall take effect the day after the proof of posting has been filed and recorded, or at a later date if expressly provided in the ordinance or bylaw.

(1m) INDETERMINATE PUBLICATION. When any village ordinance is required by law to be published without express designation therein as to class of notice, the ordinance shall be published either in its entirety, as a class 1 notice under ch. 985, or as a notice, as described under sub. (3) (b).

(2) ENTITLING OF ORDINANCE. All ordinances shall be suitably entitled and in this style: "The village board of .... do ordain as follows". All authorized ordinances and bylaws shall have the force of law and remain in force until repealed.

(3) REQUIREMENTS FOR NOTICE. (a) In this subsection, "summary" has the meaning given in s. 59.14 (1m) (a).

(b) A notice of an ordinance or bylaw that may be published under this subsection shall be published as a class 1 notice under ch. 985 and shall contain at least all of the following:

1. The number and title of the ordinance or bylaw.

2. The date of enactment.

3. A summary of the subject matter and main points of the ordinance or bylaw.

4. Information as to where the full text of the ordinance or bylaw may be obtained, including the phone number of the village clerk, a street address where the full text of the ordinance or bylaw may be viewed, and a Web site, if any, at which the ordinance or bylaw may be accessed.

History: 2007 a. 72; 2009 a. 173.

61.51 Auditing accounts. (1) No account or demand against the village shall be paid until it has been audited and allowed and an order drawn on the treasurer therefor. Every such account shall be made out in items. After auditing, which, at the option of the board, may be done by the village manager or such other officer as may be designated, the board shall cause to be endorsed by the clerk, over the clerk's hand on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the board, or a statement attached thereto, shall show to whom and for what purpose every such account was allowed and the amount. Every such account or demand allowed in whole or in part shall be filed by the clerk, and those of each year consecutively numbered, and have endorsed the number of the order on the treasurer issued in payment, and the clerk shall take a receipt thereon for such order.

(2) Payment of regular wages or salaries may be by payroll, verified by the proper official, and filed in time for payment on the regular pay day and such payments heretofore made are validated.

(3) The fiscal year in each village shall be the calendar year.

(4) Section 893.80 shall be applicable to villages.

History: 1977 c. 285 s. 12; 1979 c. 323 s. 33; 1991 a. 316.

Cross−reference: See s. 66.0609 for an alternative system of approving claims.

61.54 Public works. All contracts for public construction shall be let by a village board in accordance with s. 62.15. The village board, or a person or body designated by the village board, shall exercise the powers and duties of the board of public works under s. 62.15. Section 62.15 applies to a village in the same manner as to a city.

History: 2009 a. 173; 2011 a. 32.

Municipal competitive bidding statutes do not apply to projects undertaken by intergovernmental agreement or when the municipalities that will perform the work have made a determination under s. 62.15 (1) to do the work themselves with their own employees. OAG 5−09.

61.57 Acquisition of recycling or resource recovery facilities without bids. A village may contract for the acquisition of any element of a recycling or resource recovery facility without submitting the contract for bids as required under s. 61.54 if the village invites developers to submit proposals to provide a completed project and evaluates proposals according to site, cost, design and the developers' experience in other similar projects.

History: 1983 a. 425; 2009 a. 173.

61.61 Village orders; borrowing money. No village or any officer thereof shall have power to issue any time or negotiable order, or borrow money, except in the manner and for the purposes expressly declared by statute.

61.64 Ambulance service. The village board may purchase, equip, operate and maintain ambulances and contract for ambulance service with one or more providers for conveyance of the sick or injured. The village board may determine and charge a reasonable fee for ambulance service provided under this section.

History: 1991 a. 39.

61.65 Police and fire departments; pension funds. (1) (a) Except as provided under s. 61.66, each village with a population of 5,000 or more shall, and each village with a population of under 5,000 may, provide police protection services by one of the following methods:

1. Creating its own police department.

2. Contracting for police protective services with a city or town, with another village, or with a county. A village that contracts for police protective services shall pay the full cost of services provided. A village may not contract with a county to provide all of the village's police protective services under this subdivision.

3. Creating a joint police department with a city or town or with another village.

4. Abolishing its police department and entering into a contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement services in all parts of the village. If the village is located in more than one county, it may not abolish its police department under this subdivision unless the village enters into a contract under this subdivision with the county in which the greatest amount of the village's equalized value, population, or territory is located. If a village wishes to abolish its police department under this subdivision, it shall act under s. 62.13 (2s), and s. 62.13 (2s), as it applies to cities, applies to villages.

(am) If a village establishes a police department and does not create a board of police commissioners singly or in combination with another municipality, or if a village board establishes a combined protective services department under s. 61.66 and does not create a board of police and fire commissioners, the village may not suspend, reduce, suspend and reduce, or remove any police chief, chief of a combined protective services department, or other

law enforcement officer who is not probationary, and for whom there is no valid and enforceable contract of employment or collective bargaining agreement which provides for a fair review prior to that suspension, reduction, suspension and reduction or removal, unless the village does one of the following:

1. Establishes a committee of not less than 3 members, none of whom may be an elected or appointed official of the village or be employed by the village. The committee shall act under s. 62.13 (5) in place of a board of police and fire commissioners. The village board may provide for some payment to each member for the member's cost of serving on the committee at a rate established by the village board.

2. Appoint a person who is not an elected or appointed official of the village and who is not employed by the village. The person shall act under s. 62.13 (5) in place of a board of police and fire commissioners. The village board may provide for some payment to that person for serving under this subdivision at a rate established by the village board.

(b) 1. a. Each village with a population of 5,000 or more but less than 5,500 that creates its own police department may create or designate a committee of the board of trustees to perform any duty conferred by the board relating to police protective services, or may create a board of police commissioners to govern the department.

b. Each village with a population of 5,000 or more that creates a joint police department with another municipality shall create a joint board of police commissioners with that municipality to govern the joint department.

2. Each village with a population of 5,500 or more that creates its own police department shall create a board of police commissioners to govern the department.

(2) (a) Except as provided under s. 61.66, each village with a population of 5,500 or more shall provide fire protection services by one of the following methods:

1. Creating its own fire department.

2. Contracting for fire protection services with a city or town or with another village. A village that contracts for fire protection services shall pay the full cost of services provided.

3. Creating a joint fire department with a city or town or with another village.

4. Utilizing a fire company organized under ch. 213, except that this subdivision does not apply in a village that provides fire protection services under subd. 1. on December 9, 1993.

(b) 1. Each village with a population of 5,500 or more that creates its own fire department shall create a board of fire commissioners to govern the department.

2. Each village with a population of 5,500 or more that creates a joint fire department with another municipality shall create a joint board of fire commissioners with that municipality to govern the joint department.

(3g) (a) Any village with its own board of police commissioners and its own board of fire commissioners may consolidate the boards into one board of police and fire commissioners.

(b) Municipalities with a joint protective services department shall create a joint board of commissioners to govern that department. If a village operates both of its protective services departments jointly with one municipality, the village and the other municipality may create a joint board of police and fire commissioners to govern each department. The municipalities may jointly determine the apportionment between the municipalities of costs relating to the joint department or departments and the joint board.

(c) Any village that has created one separate protective services department and one joint protective services department may authorize the joint board governing the joint department also to govern the separate protective services department, subject to the approval of the joint board. A village that receives the approval of the joint board is not required to create or maintain a separate board of commissioners to govern the separate protective services department.

(d) 1. a. A board created under this section shall be organized in the same manner as boards of police and fire commissioners under s. 62.13 (1).

b. Municipalities creating a joint board under this section may jointly determine the number of commissioners to be appointed to the joint board by each municipality and the length of the commissioner's term. A majority of the commissioners is a quorum. The provisions of s. 62.13 pertaining to the appointment of commissioners and records of proceedings apply to the joint board.

2. Any board or joint board created under this section is subject to the provisions of s. 62.13 (2) to (12) pertaining to a board of police and fire commissioners or to appointments, promotions, suspensions, removals, dismissals, reemployment, compensation, rest days, exemptions, organization and supervision of departments, contracts and audits, to the extent that the provisions apply to 2nd or 3rd class cities. Optional powers of a joint board, listed in s. 62.13 (6), apply only if the electors in each municipality approve these powers by referendum. In applying s. 62.13, the village president has the powers and duties specified for a city mayor; the village clerk has the powers and duties specified for a comptroller; the village board has the powers and duties specified for a common council; and the village has the powers and duties specified for a city. In applying s. 62.13 to a town that creates a joint board or joint department with a village, the town chairperson has the powers and duties specified for a city mayor; the town clerk has the powers and duties specified for a comptroller; the town board of supervisors has the powers and duties specified for a common council; and the town has the powers and duties specified for a city.

3. Appointments to a board or joint board are not subject to confirmation by a village board of trustees unless required by ordinance.

(3r) Each village with a population of 5,500 or more is subject to s. 40.19 (4).

(4) Persons who are members of the police departments in villages of 5,000 or more, and members of fire departments in villages of 5,500 or more, according to the last federal census, shall automatically and without examination, become members of the police and fire departments of such villages under this section.

(5) The provisions of this section shall be construed as an enactment of statewide concern for the purpose of providing a uniform regulation of police and fire departments.

(8) Any village having a volunteer fire department shall be reimbursed by the department of transportation not to exceed $500 for any fire call on a state trunk highway or any highway that is a part of the national system of interstate highways maintained by the department of transportation if the village submits written proof that the village has made a reasonable effort to collect the cost from the insurer of the person to whom the fire call was provided or from the person to whom the fire call was provided, except that the village may attempt to collect the cost from the person only if the village is unsuccessful in its efforts to collect from the person's insurer or if the person has no insurer. If the village collects the cost from an insurer or such person after the department reimburses the village, the village shall return the amount collected to the department.

History: 1975 c. 94 s. 91 (5); 1975 c. 199; 1977 c. 29 s. 1654 (8) (d); 1977 c. 182; 1979 c. 256; 1981 c. 96 s. 67; 1981 c. 171; 1985 a. 166; 1987 a. 27, 399; 1993 a. 16, 77, 213; 2003 a. 205; 2005 a. 40; 2009 a. 173; 2011 a. 32.

Sub. (1) (am) applies to all villages, including those with populations of less than 5,000. Rychnovsky v. Village of Fall River, 146 Wis. 2d 417, 431 N.W.2d 681 (Ct. App. 1988).

61.66 Combined protective services. (1) Notwithstanding s. 61.65 (1) (a), (2) (a) and (3g) (d) 2., any village may provide police and fire protection services by any of the following:

(a) A combined protective services department which is neither a police department under s. 61.65 (1) (a) nor a fire department under s. 61.65 (2) (a) and in which the same person may be

required to perform police protection and fire protection duties without being required to perform police protection duties for more than 8 hours in each 24 hours except in emergency situations, as described under s. 62.13 (7n).

(b) Persons in a police department or fire department who, alone or in combination with persons designated as police officers or fire fighters, may be required to perform police protection and fire protection duties without being required to perform police protection duties for more than 8 hours in each 24 hours except in emergency situations, as described under s. 62.13 (7n).

(2) The governing body of a village acting under sub. (1) may designate any person required to perform police protection and fire protection duties under sub. (1) as primarily a police officer or fire fighter for purposes described in ss. 62.13 (7m), (7n), (10m), and (11), 891.45, 891.453, and 891.455.

History: 1987 a. 399; 1997 a. 173; 2005 a. 3; 2009 a. 284; 2011 a. 32.

61.71 Consolidated plats; numbering of buildings. The village board may cause a revised and consolidated plat of the lots and blocks of the village to be recorded in the office of the register of deeds, and may compel the owners and occupants of all buildings within the village to number the same in such manner as the board may from time to time prescribe.

61.72 Pest and disease prevention. When a village board shall appropriate money for the control of insect pests, weeds, or plant or animal diseases, the department of agriculture, trade and consumer protection upon request of the village board shall cooperate with the village and shall provide technical assistance and direction for the expenditure of such funds.

History: 1977 c. 29 s. 1650m (4).

61.73 Village housing authorities. The provisions of ss. 66.1201 to 66.1329 apply to villages, and the powers and duties conferred and imposed by ss. 66.1201 to 66.1329 upon mayors, councils and specified city officials are conferred upon presidents, village boards and village officials performing duties similar to the duties of the specified city officials respectively. An ordinance or resolution passed before June 4, 1949, by a village board creating a housing authority in substantially the manner provided in ss. 66.1201 to 66.1211 is valid, and village housing authorities may participate in any state grants−in−aid for housing in the same manner as city housing authorities created under ss. 66.1201 to 66.1213.

History: 1981 c. 390; 1993 a. 300; 1999 a. 150.

61.74 Detachment of farm lands from villages. Land of an area of 200 acres or more contiguous to the boundary of any village which has been within the corporate limits of such village for 20 years or more and which during all of said time has been used exclusively for agricultural purposes may be detached from such village and annexed to an adjoining town or towns in a proceeding as provided by s. 62.075 in the case of such detachments from cities. For the purpose of this section, the provisions of s. 62.075 govern wherever applicable, except the word "village" is substituted for the word "city" as used therein.

61.75 Rewards. Section 62.26 (4) shall apply to villages. As used in that section:

(1) "Alderpersons" means village trustees.

(2) "Mayor" means village president.

History: 1971 c. 116; 1983 a. 189; 1993 a. 184, 491.