

TOWN OF MCMILLAN
Marathon County, Wisconsin
An Ordinance Amending the Code of the Town of McMillan
Part I: Administrative Legislation
Chapter 61. Emergency Services
Article I. Fire Department
Amending Sections 61-3 Entitled “Recognition of organization; authorization”
and 61-5 Entitled “Scope of operation for non-fire-related activities”

The Town Board of the Town of McMillan do ordain as follows:

Section 1: Part I: Administrative Legislation, Chapter 61 Emergency Services, Article I Fire Department, Section 61-3 entitled “Recognition of organization; authorization” of the Code of the Town of McMillan is hereby amended with new language underlined and deleted language ~~stricken~~ to provide as follows:

§ 61-3. Recognition of organization; authorization.

- A. The existing fire organization is hereby officially recognized as the McMillan Fire Department and the duties of firefighting and the prevention of fires in the Town of McMillan are delegated to such department. The organization and internal regulation shall be governed by the provisions of this article and by such bylaws adopted by the Department and approved by the Town of McMillan.
- B. The McMillan Fire Chief is hereby authorized and directed to develop bylaws for the control, management, and government, and for the regulation of business and proceedings of the Department, ~~with the exception of subsections F and G below,~~ which bylaws, after adoption by a ~~two-thirds~~ majority vote of members present at the meeting, shall not become effective and operative until presented to and approved by the Town of McMillan Board. Amendments shall be adopted in the same manner.
- C. The McMillan Fire Chief is hereby authorized and directed to develop Standard Operation Procedures and Guidelines for further control and management of day-to-day operations and emergency operations.
- D. The Town of McMillan Board shall appropriate funds through the annual budget process to provide for the operation and for apparatus and equipment purchases it may deem expedient and necessary to maintain efficiency and properly protect life and property.
- E. The officers and members of the McMillan Fire Department may receive compensation from the Town of McMillan for services provided.
- F. ~~The McMillan Fire Chief shall be appointed by and may be removed by a majority vote of the members of the Town of McMillan Board.~~ Appointment of Chief. The position of Fire Chief shall be through the majority vote of the Fire Department members in accordance with the McMillan Fire Department By-Laws Section VIII. After the Fire Department Elections, the newly appointed Fire Chief shall attend the next Town of McMillan Board

Meeting to be finally approved and sworn in. This appointment shall be through a majority vote of the Town of McMillan Board. If for any reason the newly elected Chief is not approved by the majority of the Town Board, the board must give reasoning for the refusal.

The Chief shall serve at the pleasure of the Town Board. The Chief shall enjoy all rights and privileges granted to Fire Chiefs by the State of Wisconsin, and shall be subject to all duties imposed by the State, the Town, or other lawful authority. As directed by the Town Board, but not less than annually, the Chief shall render to the Town Board a complete report of the Activities of the Department for the preceding year.

- G. Removal of the Fire Chief. If for any reason the Fire Chief is no longer fulfilling his/her duties, any member of the McMillan Fire Department can ask for a vote of “no confidence” at a regular meeting. The vote of “no confidence” must be by a majority of the department’s voting members in attendance. The results of the vote shall be presented to the Town Board at their next regular meeting where the board will hear arguments for and against the removal. The vote to remove the individual must be a majority vote of the Town of McMillan Board.

Since the Fire Chief is officially approved by the Town of McMillan, the Town Board has the discretion at any time to review his/her job performance and through a majority vote of the Town of McMillan Board, vote to remove the individual from the position of Fire Chief.

- ~~G. The Town Board hereby enacts the following disciplinary procedures for application to the members of the McMillan Fire Department that are subordinate to the Fire Chief, and reserves the administration of these procedures to the Town Board:~~

- ~~(1) A subordinate may be suspended as hereinafter provided as a penalty. The subordinate may also be suspended by the Town Board pending the disposition of charges filed against the subordinate.~~
- ~~(2) Charges may be filed against a subordinate by the Fire Chief, by a member of the Town Board, by the Town Board as a body, or by any aggrieved person. Such charges shall be in writing and shall be filed with the Town Chairperson. Pending disposition of such charges, the Town Board or Fire Chief may suspend such subordinate.~~
- ~~(3) A subordinate may be suspended for just cause, as described in par. (6), by the Fire Chief or the Town Board as a penalty. The Fire Chief shall file a report of such suspension with the Town Board immediately upon issuing the suspension. No hearing on such suspension shall be held unless requested by the suspended subordinate. If the subordinate suspended by the Fire Chief requests a hearing before the Town Board, the Fire Chief shall be required to file charges with the Town Board upon which such suspension was based.~~
- ~~(4) Following the filing of charges in any case, a copy thereof shall be served upon the person charged. The Town Board shall set date for hearing not less than 10 days nor more than 30 days following service of charges. The hearing on the charges shall be public, and both the accused and the complainant may be represented by an attorney and may compel the attendance of witnesses by~~

subpoenas which shall be issued by the Town Chairperson on request and be served as are subpoenas under Wis. Stat. ch. 885.

- (5) ~~If the Town Board determines that the charges are not sustained, the accused, if suspended, shall be immediately reinstated and all lost pay restored. If the Town Board determines that the charges are sustained, the accused, by order of the Town Board, may be suspended or reduced in rank, or suspended and reduced in rank, or removed, as the good of the service may require.~~
- (6) ~~No subordinate may be suspended, reduced in rank, suspended and reduced in rank, or removed by the Town Board under par. (5), based on charges filed by the Town Board, members of the Town Board, an aggrieved person or the Fire Chief under par. (2), unless the Town Board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the Town Board shall apply the following standards, to the extent applicable:~~
 - (a) ~~Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.~~
 - (b) ~~Whether the rule or order that the subordinate allegedly violated is reasonable.~~
 - (c) ~~Whether the Fire Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order.~~
 - (d) ~~Whether the effort described under subd. (c) was fair and objective.~~
 - (e) ~~Whether the Fire Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.~~
 - (f) ~~Whether the Fire Chief is applying the rule or order fairly and without discrimination against the subordinate.~~
 - (g) ~~Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the McMillan Fire Department.~~
- (7) ~~Findings and determinations hereunder and orders of suspension, reduction, suspension and reduction, or removal, shall be in writing and, if they follow a hearing, shall be filed within 3 days thereof with the Town Clerk.~~
- (8) ~~Further rules for the administration of this subsection may be made by the Town Board.~~
- (9) ~~Any person suspended, reduced, suspended and reduced, or removed by the Town Board may appeal from the order of the Town Board to the Marathon County Circuit Court by serving written notice of the appeal on the Town Clerk within 10~~

~~days after the order is filed. If the order of the Town Board is reversed, the accused shall be forthwith reinstated and entitled to pay as though in continuous service. If the order of the Town Board is sustained it shall be final and conclusive.~~

~~(10) The provisions of pars. (1) to (10) shall apply to disciplinary actions against the Fire Chief where applicable. In addition thereto, the Town Board may suspend a Fire Chief pending disposition of charges filed.~~

H. Discipline of fire department personnel shall be according to the bylaws of the fire department. The chief shall notify the Town Board that a disciplinary action has occurred.

Section 2: Part I: Administrative Legislation, Chapter 61 Emergency Services, Article I Fire Department, Section 61-5 entitled “Scope of operation for non-fire-related activities” of the Code of the Town of McMillan is hereby amended with new language underlined and deleted language ~~stricken~~ to provide as follows:

§ 61-5. Scope of operation for non-fire-related activities.

- A. The McMillan Town Board authorizes the McMillan Fire Department to conduct or participate in water rescue, first responder calls, vehicle accidents, parades or public function, traffic control on any village, town, city, county or state roads, aid other area municipalities during natural disasters; conduct or assist training classes for other departments, first responder or any other training the McMillan Fire Department officers feel its members are qualified to teach and conduct or assist other agencies in searches for lost or missing individuals or items both within the jurisdictional limits of the Town and/or pursuant to any applicable intergovernmental cooperation agreement, mutual aid agreement including but not limited to the Mutual Aid Box Alarm System, declaration of emergency, National Incident Management System, or by specific approval of the Town Board.
- B. The McMillan Town Board further authorizes the McMillan Fire Department to assist the Town of McMillan governing board in any function or emergency the Board deems appropriate.
- C. The McMillan Town Board further authorizes the Fire Chief or other officer in charge of the Department, to dispatch Fire Department vehicles, equipment or firefighters to respond to such other calls and to engage in such other emergency or nonemergency activities, as the Fire Chief or said officer deems appropriate.

Section 3: If any provision of these Ordinances is invalid or unconstitutional or if the application of these Ordinances to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of these Ordinances that can be given effect without the invalid or unconstitutional provision or application.

Section 4: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 5: These Ordinances shall be in full force and effect from and after their date of adoption and notice to the public as required by law.

Section 6: Town personnel are hereby authorized and directed to make all changes to the Code of the Town of McMillan necessary to reflect this amendment.

Adopted this 10 day of April, 2023.

TOWN OF MCMILLAN

By: Rodney C Bauer
Rodney Bauer, Chairperson

ATTEST:

By: [Signature]
John Cokl, Clerk

Noticed to the public on: April 14, 2023.