



A PERFECT ENVIRONMENT

Residential Recreational Responsible

Chair
Ron Troy
Supervisors
Edward Kranick
Steve Michels
Joe Woelfle
Magalie Miller
Clerk/Treasurer
Dan Green

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
TUESDAY, JANUARY 24, 2023
6:30 PM**

**DELAFIELD TOWN HALL – W302 N1254 MAPLE AVENUE, DELAFIELD, WI
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Citizen Comments: Public comments from citizens regarding items on, or not on the agenda. The Board may not engage in a discussion with the citizen making the comments. Individual presentations are limited to three minutes and citizens shall follow the rules set forth in Section 2.04(1)(d) of the Town Code.
5. Approval of Minutes:
 - a. January 10, 2023, Town Board Minutes
6. Action on vouchers submitted for payment:
 - a. Report on budget sub-accounts and action to amend 2022 and 2023 budget
 - b. 1) Accounts payable; 2) Payroll
7. Communications (for discussion and possible action)
8. Unfinished Business: None
9. New Business
 - a. Discussion and possible action on a Temporary Class "B" license for the HAWS Schalleck Center for Animals for the Hooves and Flights event on May 19, 2023.
 - b. Discussion and possible action on the agreement with R.A. Smith, Inc. for municipal engineering and planning services and information technology services for 2023.
 - c. Discussion and possible action on the adoption of Ordinance 2023-02, an ordinance to repeal and re-create portions of Section 10.11 of the Municipal Code concerning residency restrictions for sex offenders.
10. Announcements and Planning items
 - a. Plan Commission – Tuesday, February 7, 2023 @ 6:30 PM
 - b. Town Board – Tuesday, February 14, 2023 @ 6:30 PM
 - c. Spring Primary – Tuesday, February 21, 2023
11. Adjournment

Dan Green
Town of Delafield Clerk/Treasurer

PLEASE NOTE:

- ✓ It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order. It is also possible that a quorum of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.
- ✓ Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Town Clerk Dan Green (262) 646-2398.

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
JANUARY 10, 2023 @ 6:30 PM**

Video Link:

First order of business: Call to Order

Chairman Troy called the meeting to order at 6:30 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Roll Call

Present: Supervisor Kranick, Supervisor Miller, Supervisor Woelfle, Supervisor Michels and Chairman Troy. Also present was Administrator Dan Green and Engineer Tim Barbeau.

Fourth order of business: Citizen Comments: None

Fifth order of business:

- A. Approval of the December 13, 2022, Town Board Minutes

Motion by Supervisor Kranick to approve the December 13, 2022, minutes. Seconded by Supervisor Woelfle. Motion passed 5-0.

Sixth order of Business: Action on vouchers submitted for payment:

- A. Report on budget sub-accounts and action to amend 2022 or 2023 budget
B.1) Accounts payable; 2) Payroll

Motion by Supervisor Kranick to approve payment of checks #66256 and #66260 - #66322 in the amount of \$205,788.81, and payrolls dated December 23, 2022, in the amount of \$16,217.99 and payrolls dated January 6, 2023, in the amount of \$19,567.12. Seconded by Supervisor Woelfle. Motion passed 5-0.

Seventh order of Business: Communications

Supervisor Kranick, upcoming Wisconsin Town's Association meeting. He also handed out a calendar for the upcoming district meetings. Supervisor Kranick also acknowledge the passing of the Village of Nashotah's President, Richard Lartz.

Eighth order of Business: Unfinished Business: NONE

Ninth order of Business: New Business:

- a. Discussion and possible action on the renewal of insurance for 2023 property, vehicle, and liability coverages. Mike, renewal is coming up on 1/29.

Mike Walden, R&R Insurance, reviewed the coverages with the Town Board. The Board discussed continuing to take injunctive relief coverage, and rejecting the auto med pay coverage.

Motion by Supervisor Kranick to accept the 2023 renewal from CIC with the rejection of auto med pay and the acceptance of the injunctive relief. Seconded by Supervisor Woelfle. Motion passed 5-0.

- b. Discussion and possible action on the recommendation from the Plan Commission for approval of a Certified Survey Map to combine two lots into one lot at N26W30285 Maple Avenue. Stuart Kotovic and Melisa Krueger, applicant.

Engineer Barbeau explained this is a combination CSM. The applicant wishes to combine two lots along Maple Avenue to one, to take down and rebuild a home on the lot. They have not done work on the property yet, and are getting ready before applying for a building permit. He explained the unique right-of-way situation where a curve pushes the right-of-way to the west, leaving a small right-of-way along this lot. The engineer's original recommendation was to ask for additional right-of-way, but was informed by the applicant that the County already purchased additional right-of-way from this property in 2000. The Plan Commission recommended approval of the CSM subject to Waukesha County and City of Delafield comments.

Motion by Supervisor Kranick to approve the CSM dated 12/15/2022 subject to the satisfaction of comments from the Town Engineer, City of Delafield, and Waukesha County. Seconded by Supervisor Michels. Motion passes 5-0.

- c. Discussion and possible action on a contract with AVI Systems Inc., to update and repair the Town's AV equipment, for a cost not to exceed \$11,227.73.

Administrator Green explained that the AV system is currently operating all the time, with no way to control the power or volume. The longer they do nothing, the more the system will continually be left on and wear down.

Motion by Supervisor Kranick to approve a contract with AVI Systems Inc., to update and repair the Town's AV equipment, for a cost not to exceed \$11,227.73. Seconded by Supervisor Michels. Motion passes 5-0.

- d. Discussion and possible action on adopting Resolution 23-660, a resolution for exceeding the State imposed levy for the Town of Delafield through a referendum in April 4, 2023, to fund Lake Country Fire and Rescue additional staffing.

Supervisor Kranick state the board has talked about this for quite some time. There is a crisis in our Fire and EMS service. They do not have enough staff, and response times are suffering. We can say we all have the same problem, or we can do something about it. The proposal in front of us, is to fund the 2023 full time staff, and hire the additional seven staff in 2024. This would also retain the revenues that we get from intermunicipal transports. By passing a referendum, the Town can stay within the levy limits. The benefit of the Town originally joining LCFR was that we would get 4 individuals 24/7, 365 days a year. Unfortunately, LCFR is running short on those part time staff. We need to do what we have to in order to fund this. He stated the Town should pay attention to what the City of Delafield is doing. He stated he was in favor of approving the \$470,000.

Supervisor Woelfle stated he agreed with Supervisor Kranick, and the board should stick with retaining the 7 staff and funding 7 additional, as the Chief is asking for. He stated the Fire Chief has the most knowledge of his department's needs.

Supervisor Michels stated he will support the \$470,000 figure. The fire department needs 14 full time people. He explained that the Town of Delafield is the only municipality in the fire consortium that is going to referendum for a levy increase.

Supervisor Miller questioned the longevity of this plan, which would only cover additional staff through 2024. She stated she feels uncomfortable not being able to secure a plan for the next 3 to 4 years. Chairman Troy explained the plan is to hire 7 people in 2023 and 7 more in 2024. The referendum will fund these positions indefinitely. Supervisor Miller asked what the Town does when the department runs out of money again. Supervisor Woelfle explained there would be another referendum. He explained that the market place shift presented a problem with staffing, along with changes to the Department of Labor laws regarding how to pay interns. He stated the board can address the immediate problem for the next two years and hope the market

stabilizes. He also explained that many of the fire departments in the area are waiving paramedic requirements to obtain staff. He thinks this is a good short-term solution and hopefully can get this passed.

Chairman Troy stated he cannot support a \$470,000 increase to hire 14 people in advance. He is in favor of the \$260,000 to retain the 2023 hires, but questioned the Fire Chief's numbers. He explained the dollar figures are a moving target. He questioned the 2024 number, because he does not presume that all new hires will start in January. He does not think the voters are going to accept a \$470,000 increase to their taxes. Supervisor Kranick stated that the Town is increase the levy by \$470,000, but that increase looks different based on resident's assessed value. Chairman Troy stated we are still asking residents to raise taxes. When the Town did this three years ago, it failed overwhelmingly. He thinks \$260,000 has a chance of passing.

Supervisor Woelfle stated the point of the referendum is to get better response time. 14 full time staff will make a bigger difference than only adding 7.

Motion by Supervisor Michels to adopt Resolution 23-660, a resolution for exceeding the State imposed levy for the Town of Delafield through a referendum on April 4, 2023, to fund Lake Country Fire and Rescue additional staffing for \$470,000. Seconded by Supervisor Woelfle.

Roll Call Vote:

Supervisor Miller - Yay

Supervisor Kranick - Yay

Supervisor Woelfle - Yay

Supervisor Michels - Yay

Chairman Troy – Nay

Motion passes 4-1.

Tenth order of Business: Announcements and Planning items

- a. Town Board – Tuesday, January 24, 2023 @ 6:30 PM
- b. Plan Commission – Tuesday, February 7, 2023 @ 6:30 PM
- c. Town Board – Tuesday, February 14, 2023 @ 6:30 PM

Eleventh order of Business: Adjournment:

Motion by Supervisor Kranick to adjourn the Tuesday, January 10, 2022, Town Board meeting at 7:15 PM. Seconded by Supervisor Woelfle. Motion passed 4-0.

Respectfully submitted:

Dan Green, CMC/WCMC
Administrator - Town Clerk/Treasurer



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January 24, 2023

To: Chairman Ron Troy
Cc: Town Board
From: Dan Green, Administrator/Clerk/Treasurer

Item: Discussion and possible action on amending the 2022 Budget Expenditures for General Government Expenditures by \$210,426.37, Public Safety Expenditures by \$58,747.55 and Parks and Recreation Expenditures by \$22,626.47.

Description:

This budget adjustment request is for the 2022 budget expenditures dealing with 3 specific line items in the budget.

1. ARPA Expenditures. These expenditures were not budgeted for in 2022, so an adjustment needs to be made to our General Government expense, where these expenses appear. The budget adjustment should increase expense account 10-51600-370 by \$210,426.37.
2. Public Safety Expenditures. An increase in the 2% Fire Dues budget is required to account for the funds that came in, and were then paid to LCFR. The Town serves as a go-between for these payments. The budget adjustment should increase expense account 10-52300-298 by \$58,747.55.
3. Park and Recreation Expenditures. Park donation funds were utilized in 2022 to pay for some of the work done at the Sports Commons facility. These funds were not budgeted for in 2022, and need to be recognized in the budget. The budget adjustment should increase expense account 10-55300-392 by \$22,626.47.

Recommendation:

Staff recommends approval amending the 2022 Budget to increase General Fund Expenditure account 10-51600-370 by \$210,426.37, account 10-52300-298 by \$58,747.55, and account 10-55300-392 by \$22,626.47.

Application for Temporary Class "B" / "Class B" Retailer's License

See Additional Information on reverse side. Contact the municipal clerk if you have questions.

FEE \$ 10

Town Village City of Delafield

Application Date: 1/12/2023

County of Waukesha

The named organization applies for: (check appropriate box(es))

- A Temporary Class "B" license to sell fermented malt beverages at picnics or similar gatherings under s. 125.26(6), Wis. Stats.
 A Temporary "Class B" license to sell wine at picnics or similar gatherings under s. 125.51(10), Wis. Stats.

at the premises described below during a special event beginning May 19, 2023 and ending May 19, 2023 and agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

1. Organization (check appropriate box) →

- Bona fide Club Church Lodge/Society
 Chamber of Commerce or similar Civic or Trade Organization 50130
 Veteran's Organization Fair Association

(a) Name HANS Schallack Center for Animals

(b) Address W330 S1205 COUNTY TRUNK HWY C DELAFIELD, WI 53018

(c) Date organized JULY 1985

(d) If corporation, give date of incorporation FEB 10, 1988

(e) If the named organization is not required to hold a Wisconsin seller's permit pursuant to s. 77.54 (7m), Wis. Stats., check this box:

(f) Names and addresses of all officers:

President Bill Stone, 701 Northview Rd. Waukesha, WI 53186

Vice President Betsy DeJaco, 701 Northview Rd. Waukesha, WI 53186

Secretary CURRENTLY VACANT, N/A

Treasurer Tom Magner, 701 Northview Rd. Waukesha, WI 53186

(g) Name and address of manager or person in charge of affair: Kate Gerls, HANS COMMUNITY Engagement Manager 53729919 Prairie Falcon Pass Waukesha, WI 53188

2. Location of Premises Where Beer and/or Wine Will Be Sold, Served, Consumed, or Stored, and Areas Where Alcohol Beverage Records Will be Stored:

(a) Street number W330 S1205 COUNTY TRUNK HWY C.

(b) Lot - _____ Block - _____

(c) Do premises occupy all or part of building? YES

(d) If part of building, describe fully all premises covered under this application, which floor or floors, or room or rooms, license is to cover: _____

PAID

3. Name of Event

(a) List name of the event Hooves and Flights

(b) Dates of event MAY 19, 2023

DECLARATION

The Officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief.

Officer Walter D. [Signature] 1/12/23
(Signature/date)

Humane Animal Welfare Society
(Name of Organization)

Officer _____
(Signature/date)

Officer _____
(Signature/date)

Date Filed with Clerk _____

Officer _____
(Signature/date)

Date Granted by Council _____

Date Reported to Council or Board _____

License No. _____

PAID

Additional Information

May be Granted and Issued only to:

- (1) Bona fide clubs.
- (2) State, county, or local fair associations, or agricultural societies.
- (3) Churches, lodges, or societies that have been in existence for at least 6 months prior to the date of application.
- (4) Posts of veterans organizations.
- (5) Chambers of commerce or similar civic or trade organizations organized under ch. 181, Wis. Stats.

Application:

- (1) Filing: In writing, for each event, on Form AT-315.
- (2) The local licensing authority may act on application or authorize an official or body of the municipality to issue the license. (ss. 125.26(1) and 125.51(1)(a), Wis. Stats.)
- (3) The written application shall be filed with the clerk of the municipality in which premises are located:

Class "B" (Beer):

- a. The governing body shall establish any waiting period before granting of a license for events lasting less than 4 days (s. 125.04(3)(f), Wis. Stats.)
- b. At least 15 days prior to the granting of the license for events lasting 4 or more days.

"Class B" (Wine):

The application shall be filed with the clerk of the local municipality in which the event will be held at least 15 days prior to the granting of the license.

- (4) Seller's Permit: Sec. 77.54 (7m), Wis. Stats., provides an exemption from Wisconsin sales and use taxes relating to certain sales by a nonprofit organization. Check the box if your organization qualifies for the exemption and therefore is not required to hold a seller's permit.
- (5) Publication: Not required.

Fee: Determined by the municipality, but may not exceed \$10. (Exception: No additional fee may be charged if organization is applying for both a Temporary Class "B" and a Temporary "Class B" license for the same event.)

Duration: The day, or consecutive days, that the specified event is in progress. A municipality may issue up to 20 licenses to the same licensee for a single event, if each license is issued for the same date and time.

Restrictions:

- (1) License may not be issued to individuals.
- (2) Licenses to organizations, other than ex-servicemen's organizations, can be issued only for a picnic or similar gathering. They may not be issued for business or social meetings of the organization.
- (3) Licenses for club or organization meetings may be issued only to ex-servicemen's posts.
- (4) License may cover either a specified area or the entire picnic grounds.
- (5) License issued to a county or district fair must cover the entire fairground (ss. 125.26(6) and 125.51(10), Wis. Stats.)
- (6) No license to clubs having any indebtedness to any wholesaler for more than 15 days for beer (s. 125.33(7), Wis. Stats.) and 30 days for wine (s. 125.69(4)(b), Wis. Stats.)
- (7) Licensed operator(s) must be present at all times (ss. 125.26(6), 125.32(2) - Beer; 125.51(10), 125.68(2) - Wine; 125.17)
- (8) The licensed club, club members, or any other persons are not permitted to possess intoxicating liquor on licensed premises on the Temporary Class "B"/Class B licensed picnic area. (s. 125.32(6), Wis. Stats.)
- (9) Not more than 2 wine licenses may be issued to any club, county or local fair association, agricultural association, church, lodge, society, chamber of commerce or similar civic or trade organization or veterans' post in any 12 month period. A municipality may issue up to 20 wine licenses to the same licensee if: 1) each license is issued for the same date and times, 2) the licensee is the sponsor of an event held at multiple locations within the municipality on this date and at these times, 3) an admission fee is charged for participation in the event and no additional fee is charged for service of alcohol beverages at the event, and 4) within the immediately preceding 12-month period, the municipality has issued these multiple licenses for fewer than 2 events. In addition, each event for which multiple licenses are issued shall count as one license toward the 2-license limit.
- (10) Licensed organizations must purchase their product from a licensed wholesaler.

NOTE: Most coolers presently on the market have a fermented malt beverage base allowing sale under a beer license, e.g. Bartles and James, Seagrams, etc.

AGREEMENT

between

Town of Delafield - Municipality

and

R.A. Smith, Inc. - Engineer

for

**Municipal Engineering and Planning
and
Information Technology (IT) Services**

2023

PROFESSIONAL ENGINEERING/PLANNING AGREEMENT

This AGREEMENT, upon execution by and between the TOWN OF DELAFIELD and R.A. SMITH , INC. hereinafter referred to as the ENGINEER/PLANNER, provides PROFESSIONAL CIVIL ENGINEERING, PLANNING, SURVEYING, AND IT SERVICES for the purpose of serving in the capacity as the TOWN ENGINEER/PLANNER as directed by the TOWN OF DELAFIELD.

The terms of this AGREEMENT shall basically cover providing services by the TOWN ENGINEER/PLANNER that are requested by the TOWN OF DELAFIELD. The intent and purpose of this AGREEMENT are to achieve a mutual understanding of the responsibilities and the form of compensation to provide these services on an ongoing basis. It is hoped by execution of this document by both parties that the relationship and services provided by the ENGINEER/PLANNER to the TOWN OF DELAFIELD are lasting, during both this present as well as future administrations.

SECTION 1 - GENERAL

- A. On January 4, 2023, a draft professional engineering/planning agreement was forwarded to the Town for approval and on January 10, 2023, the agreement was approved by the Town Board.
- B. The ENGINEER/PLANNER shall perform and provide normal civil, municipal engineering and planning services as herein stated, as well as IT services for the Clerk.

SECTION 2 - PRINCIPAL CONTACTS

The TOWN OF DELAFIELD and ENGINEER/PLANNER understand the following individuals are considered the contact priorities for all direction, requests, and services:

A. TOWN OF DELAFIELD

- 1. Primary Contact: Town Board Chair
Town Board of Supervisors
Town Plan Commission Chair
Town Clerk
Highway Superintendent
W302 N1254 Maple Avenue
Delafield, WI 53018-2117
(262) 646-2398

B. ENGINEER/PLANNER

1. Primary Contact: Timothy G. Barbeau, P.E., R.L.S.
Project Manager
R.A. Smith, Inc.
16745 West Bluemound Road
Brookfield, WI 53005-5938
(262) 317-3307
2. Other Contacts: Chris Pinkowski
Director of IT Services
R.A. Smith, Inc.
16745 West Bluemound Road
Brookfield, WI 53005-5938
(262) 317-3343

SECTION 3 - DURATION OF APPOINTMENT AND ENGINEER/PLANNER'S SCOPE OF SERVICES

- A. The term of appointment of ENGINEER/PLANNER shall be for a period beginning January 1, 2023 through December 31, 2023.
- B. It is expressly understood by the Town that the Engineer/Planner shall perform normal municipal engineering and services to developers in the Town as needed to assure compliance with Town Codes. Developers are defined as any person or company that brings the following (or anything similar) to the Town for action: Subdivision Plats and Plans, Certified Survey Maps, Planned Unit Developments, Conditional Uses, Zoning changes, home occupations and building grades. All plan review, project coordination, public hearings, and construction observation services associated with a specific development or proposal before the Plan Commission or Town Board shall be billed to the Town on a separate invoice. These services and compensation thereof are considered under the "reimbursable" portion of the Town budget for engineering/planning services and are assumed to be billed to developers for reimbursement.
- C. The ENGINEER/PLANNER shall provide the following professional services for the duration of the Agreement. By execution of this agreement, the Town Board authorizes the services under this section to be provided as stated without specific approval of each task as it is performed. These services and the associated compensation are subject to change based on the scope of services requested by the Town Board.

1. 2023 Municipal Engineering services. (Budget No. 10-56300-299)
 - a. General consulting as directed on an as-needed basis including holding regularly scheduled office hours at the Town Hall a minimum of two partial days per week.
 - b. Respond to questions and requests received during in-person meetings, telephone calls and e-mails from citizens', real estate agents', surveyors' and engineers' questions and provide information to them as they request, unless it meets the terms of Section 3B above.
 - c. Prepare resolutions and ordinances as directed by the Town Board or Plan Commission.
 - d. Prepare an engineering report and recommendation for matters that are sent to the engineer for follow up.¹
 - e. Coordinate matters and questions raised by the primary contacts as defined in Section 2.A.1. and Town Attorney.¹
 - f. Attend one Town Board meeting per month.
 - g. Attend meetings associated with the NR216 requirements and provide reports as necessary at the Town Board meeting.
 - h. Update maps in the Town as needed.

2. 2023 Plan Commission services. (Budget No. 10-56300-218)
 - a. Prepare agenda and supplemental information packets for business meeting of the Plan Commission.
 - b. Attend one business meeting and occasional workshop meetings as scheduled.
 - c. Prepare a report for the annual Town meeting.
 - d. Prepare for presentation of information at the meetings.
 - e. Review correspondence and documents forwarded to the Town by various agencies and report to the Plan Commission on them.

3. 2023 Road Improvement Program. (Budget No. 10-56300-216)
 - a. Prepare the necessary specifications and bid documents for the annual road-paving program. Provide services associated with bidding, including bid opening, bid review and contract execution. Provide overall project coordination with the contractor. Provide full time, on-site observation during construction up to a maximum of 80 hours.
 - b. Update the pavement management system for the Town.

4. 2023 Reimbursable Services. (Budget No. 10-56300-215)
 - a. Provide plan review, construction coordination, construction inspection, consultation, attendance at hearings and any other service to developers and petitioners in the Town to assure compliance with Town codes.

5. 2023 Building Grades. (Budget No. 10-56300-298)
 - a. Review and set an elevation on each home or building constructed in the Town.

¹ Note: Since the Engineer cannot predict what matters will come before the Town Board or Plan Commission, we can only provide an estimate for some anticipated requests that were made a part of the budget proposal.

6. NR 216 Permit Compliance (Budget No. 10-56300-253)
 - a. Attend meetings and perform follow-up tasks associated with the issuance and compliance of the WDNR WPDES permit.
7. Zoning Code Revisions (Budget No. 10-56300-300)
 - a. Provide zoning code revision services as requested by the Plan Commission.
8. Zoning Code Enforcement (Budget No. 10-56300-301)
 - a. Provide Zoning Code enforcement services and complaint follow-up as requested by the Plan Commission that is not in conflict with the duties of the Zoning Administrator.
9. Town GIS Development (Budget No. 10-56300-331)
 - a. Maintain a Town GIS based map viewer application for the staff and public. Layers to include zoning districts, sign inventory, pavement ratings, storm water data, garbage route days and voting wards. Includes payment to ESRI for annual subscription of GIS maps and data.
10. Map Modernization (Budget No. 10-56300-332)
 - a. Prepare documents and attend meetings necessary to update the WF-1 areas of the Town zoning map
11. IT Services. (Budget No. 10-51600-216)
 - a. Provide IT Services as requested by the Town Clerk on an as needed basis.

D. Specific Services Not Included in the Fee Estimate

1. Meetings outside of those stated above.
2. Work associated with the preparation of a Comprehensive Land Use Plan and major overhauls to the zoning and/or subdivision code.
3. Grant applications.
4. Surveying services, unless specified above.

SECTION 4 - COMPENSATION

- A. In consideration for services outlined in Section 3, the ENGINEER/PLANNER shall be compensated as follows:
 1. On an hourly-rate basis in accordance with the Professional Fees Rate Schedule shown in Exhibit A. The rate for Tim Barbeau shall be \$168/hour.

2. All reimbursable services, as defined above, provided by the ENGINEER/PLANNER, shall to the full extent practical, be billed to the person(s) and/or entity(ies) responsible for incurring the provision of said services. The Town shall be responsible for all billing and collection services related hereto. In addition to the applicable hourly rates, all expenses, including but not limited to postage, copies, phone, photographs, mileage, etc. shall be billed.
 3. The ENGINEER has submitted a budget for services and the Town has adopted a budget for engineering services as shown in Exhibit B. The ENGINEER shall meet the budget unless requests for services exceed anticipated time allotted for services.
 4. The ENGINEER/PLANNER and the Town may negotiate separate contractual arrangements for the provision of services beyond those services identified above as described in Section 6 of this agreement.
- B. Mileage shall be invoiced at the current federal reimbursement rate in effect at the time mileage is incurred; the anticipated rate is 65.5 cents per mile for a regular automobile.
- C. The ENGINEER/PLANNER shall submit invoicing on a monthly basis, itemizing categories of personnel and hours. The invoices shall be forwarded to the Town by the end of the month following the month in which the work took place.
- D. The TOWN OF DELAFIELD shall make payment within 45 days of receipt of invoice and interest of 1 percent per month shall accrue on unpaid balances.
- E. The TOWN OF DELAFIELD shall provide R.A. SMITH, INC. with a clear, written statement within thirty (30) days of the date of invoice of any objections to the invoice or any portion or element thereof. Failure to provide such written statement shall constitute acceptance of the invoice as submitted.

SECTION 5 - RESPONSIBILITIES AND MUTUAL COVENANTS

- A. Services shall be requested by the TOWN OF DELAFIELD through the following methods:
1. Execution of this agreement shall be sufficient direction by the Town Board to provide the services identified in Section 3 of this agreement. Requests beyond those identified in the Contracted Services, Reimbursable Services or Special Projects, or which in the opinion of the ENGINEER/PLANNER falls outside the scope of services identified in Section 3 shall be brought before the Town Board for specific direction and approval (for compensation).
- B. The ENGINEER/PLANNER certifies that insurance is in force and shall be maintained throughout the term of this AGREEMENT for Worker's Compensation Act and from all claims for bodily injury or property damage which may arise from the negligent performance by the ENGINEER/PLANNER and for errors and omissions. The ENGINEER/PLANNER shall provide a certificate of insurance for General Liability and Errors and Omissions to the Town of Delafield as shown on Exhibit C. The ENGINEER/PLANNER shall submit a copy of the certificate of insurance within 30 days after the policy is renewed (renewal date is July 1 of each year).
- C. Either party may terminate this AGREEMENT, in whole or in part, in writing, if the other party substantially fails to fulfill its obligations under this AGREEMENT through no fault of the terminating party. However, no such termination may be effected unless the other party is given: (1)

not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party before termination.

- D. Any changes in personnel listed under the Primary Contacts by the ENGINEER/PLANNER under Section 2.B.1. in this AGREEMENT shall be subject to approval of the Town Board.
- E. If the TOWN OF DELAFIELD terminated for default, an equitable adjustment in the price provided for in this AGREEMENT shall be made, but no amount shall be allowed for anticipated profit on unperformed services or other work. If the ENGINEER/PLANNER terminates for TOWN OF DELAFIELD default, or if the TOWN OF DELAFIELD terminates for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the ENGINEER/PLANNER for services rendered and expenses incurred up to the termination, in addition to termination settlement costs the ENGINEER/PLANNER reasonably incurs relating to commitments which had become firm before the termination.
- F. In the event it is desired to terminate this AGREEMENT as a result of lack of performance or negligence, the TOWN OF DELAFIELD shall call an Executive Session if allowed by law of the Town Board to discuss any problems with the ENGINEER/PLANNER prior to termination.
- G. Upon termination, the TOWN OF DELAFIELD may take over the work and prosecute the same to completion by agreement with another party or otherwise. Any work the TOWN OF DELAFIELD takes over for completion will be completed at the TOWN OF DELAFIELD's risk, and the TOWN OF DELAFIELD will hold harmless the ENGINEER/PLANNER from all claims and damages arising out of improper use of the ENGINEER/PLANNER's work.
- H. The ENGINEER/PLANNER shall maintain and make available to the TOWN OF DELAFIELD the records under this AGREEMENT for a period of at least three (3) years from date services were provided, and shall not destroy any records thereafter without prior notice to and approval of the TOWN OF DELAFIELD.
- I. All work product, whether in hard copy or computer form, pertaining to the services defined by this Agreement developed by R.A. SMITH, INC., shall become the property of the TOWN OF DELAFIELD. However, the ENGINEER/PLANNER shall have the right to retain copies of all work product and documentation provided to the TOWN OF DELAFIELD. TOWN OF DELAFIELD shall, at the ENGINEER/PLANNER's expense, provide ENGINEER/PLANNER with copies of all information requested.

R.A. SMITH, INC. reserves the right to use said documentation and information for any purpose related or non-related to said project, including marketing, promotion, and future business.

SECTION 6 - ADDITIONAL SERVICES

The ENGINEER/PLANNER will perform the following additional services for the TOWN OF DELAFIELD on an hourly rate basis and pursuant to prior authorization of the TOWN BOARD. These services are outside of the scope of services outlined in Section 3.

1. Engineering, planning, and/or surveying on any special Town project including, but not limited to: feasibility studies, preliminary reports, design, preparation of plans and specifications, bidding and construction management, supervision, staking, and on-site construction observation services. Projects may include, but are not limited to: water mains,

water supply, water storage, sanitary collection, treatment, discharge, drainage, storm sewers, highway, grading, parking, and/or municipal projects, or property surveys.

2. Performing construction observation services as required to assure conformance with Town standards for special Town projects.
3. Undertaking special studies; interpreting, researching, and rewriting ordinances, policies, and/or standards for the TOWN OF DELAFIELD.
4. Assisting in the planning, implementation, and undertaking of engineering design, plans and specifications, and construction services associated with formation of a Tax Incremental Financial district.
5. Representing the TOWN OF DELAFIELD at any seminars, meetings, hearings, court appearances, or any other functions that attendance by the ENGINEER/PLANNER is directed by the TOWN OF DELAFIELD.
6. Reviewing property, right-of-way, and government monument surveys.
7. Reviewing wetland, flood plain (hydrologic and hydraulic), and environmental corridor studies and reports.
8. Reviewing Environmental Site Assessments.
9. Reviewing feasibility or cost evaluation reports, design, studies, etc.
10. Reviewing solid waste or landfill studies.
11. Preparing and/or reviewing State and/or Federal grant, aid, assistance, or funding applications for Town projects.
12. Assisting in selection and/or supervision of any subconsultant services including, but not limited to:
 - a. Soil testing.
 - b. Architectural; electrical; and/or heating, ventilating, and air-conditioning services.
 - c. Structural services associated with buildings, or other specialized structural services not within the scope of work provided by the ENGINEER/PLANNER.
 - d. Appraisals.
 - e. Ground water studies and/or testing.
 - f. Specialized legal services.
13. Preparing newsletters associated with engineering projects or conducting informational meetings and/or public hearings.
14. Reviewing legal testimony.

SECTION 7 - SUCCESSORS AND ASSIGNS

The TOWN OF DELAFIELD and ENGINEER/PLANNER each binds themselves and their partners, successors, executors, administrators and assigns to the other party of this AGREEMENT and to the partners, successors, executors, administrators, and assigns of such other party, in respect of all covenants of this AGREEMENT; except as above, neither TOWN OF DELAFIELD nor ENGINEER/PLANNER shall assign, sublet, or transfer his interest in this AGREEMENT without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the TOWN OF DELAFIELD and ENGINEER/PLANNER.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed on their behalf respectively by their proper officers or officials thereunto duly authorized by their respective governing bodies.

The Town Board of the Town of Delafield on January 25, 2022, did approve the services provided for under this AGREEMENT and accordingly authorized execution as follows:

ENGINEER/PLANNER

MUNICIPALITY

R.A. SMITH, INC.

TOWN OF DELAFIELD

Leonard J. Roecker, P.E.
Director of Municipal Services

Ronald A. Troy
Town Chairman

WITNESS:

WITNESS:

Timothy G. Barbeau, P.E., P.L.S.
Senior Project Manager

Dan Green
Town Clerk

Date

Date

EXHIBIT A

Professional Fees Rate Schedule

**TOWN OF DELAFIELD
PROFESSIONAL FEES RATE SCHEDULE
2023**

ENGINEERING SERVICES

PER HOUR

Senior Project Manager	\$188
Project Manager (Tim Barbeau @\$168/hour)	\$171
Senior Project Engineer	\$171
Project Engineer	\$163
Civil Engineer	\$114 - \$153
Engineering Technician.....	\$ 83 - \$147
Landscape Architect	\$158 - \$184
Landscape Technician	\$129
Ecologist.....	\$130 - \$158

SURVEYING SERVICES

Survey Director	\$181
Project Manager	\$169
2-Member Field Crew GPS/Robotics.....	\$228
Field Person GPS/Robotics	\$158
Project Surveyor	\$130
Survey Technician.....	\$ 95 - \$137

CONSTRUCTION SERVICES

Construction Services Manager.....	\$186
Construction Technician.....	\$ 99 - \$161

GIS & VISUALIZATION SERVICES

GIS Project Manager	\$166 - \$174
GIS Technician.....	\$ 95 - \$137

IT & ADMINISTRATIVE SERVICES

Computer Services	\$201
Grants Specialist.....	\$137
Project Technician.....	\$ 93
Litigation/Expert Witness.....	\$303 - \$330

EXHIBIT B

Estimated Allocation of Time

ENGINEERING/PLANNING SERVICES			
Budget No.	Description	Budget	Estimated Allocation of Time
10-56300-215	Reimbursable Services	\$10,000	As needed
10-56300-216	Road Improvement Program	\$36,000	230 hours
10-56300-218	Plan Commission	\$14,000	7 hours/month
10-56300-298	Building Grades	\$1,200	As needed
10-56300-299	Municipal Engineering Services	\$60,000	30 hours/month
10-56300-253	NR 216 Permit Compliance	\$8,000	As needed
10-56300-300	Zoning Code Revisions	\$1,800	As needed
10-56300-301	Zoning Code Enforcement	\$500	As needed
10-56300-331	Town GIS Development	\$2,000	12 hours
10-56300-332	Map Modernization	\$1,000	7 hours
10-56300-330	Mileage Reimbursement	\$2,350	

IT SERVICES			
Budget No.	Description	Budget	Estimated Allocation of Time
10-51600-216	IT Services	\$4,000	As needed

EXHIBIT C

Certificate of Insurance General Liability and Professional Liability (Errors and Omissions)

(currently on file – update will be provided when policy is renewed in July, 2023)

ORDINANCE NO. 2023-02**AN ORDINANCE REPEALING AND RE-CREATING PORTIONS OF
SECTION 10.11 OF THE MUNICIPAL CODE CONCERNING RESIDENCY RESTRICTIONS
FOR SEX OFFENDERS**

WHEREAS, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, deems it a priority to act in the interest of public safety within our community, particularly in the interest of our children: and

WHEREAS, according to the U.S. Department of Justice, there are a record number of convicted sex offenders living in our communities¹; and

WHEREAS, all convicted child sex offenders have proven themselves to be dangerous²; and

WHEREAS, research in this area has established sex offenders are rearrested for sex crimes four times more frequently than non-sex offenders³; and

WHEREAS, the reduction of crime and criminal recidivism are inextricably linked to public safety within our community; and

WHEREAS, the risks posed by sex offenders against children, are nationally recognized in such landmark legislation as the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; 1996 Megan's Laws; and the 2006 Adam Walsh Child Protection and Safety Act; and these risks are also recognized by legislation in every State in the United States of America including Wisconsin; and

WHEREAS, the Town Board finds that the data concerning child sex offenders is horrific and demonstrates the need for action, including the following⁴:

- "sex crimes are unfortunately fairly common in the United States."
- "It is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood."
- "Children are particularly vulnerable. Approximately 67% of all victims of reported sexual assaults are under the age of 18, and more than half of these victims are under the age of 12."

¹ Sex Offender Management Assessment and Planning Initiative, July 2015, *"This includes offenders returning to the community upon release from incarceration as well as offenders who are serving or who have been discharged from community-based sentences."*

² Kester, 2013 WI App 50, ¶ 30.

³ Sex Offender Management Assessment and Planning Initiative, July 2015, Langan, P., Schmitt, E., & Durose, M. (2003). *Recidivism of Sex Offenders Released from Prison in 1994.*

⁴Center for Sex Offender Management (CSOM) statistics. CSOM is a collaborative effort of the U.S. Department of Justice, Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, and these quoted statistics are from its "Fact Sheet: What You Need to Know about Sex Offenders".

- “Most sexual offenses are committed by someone the victim knows ... or acquaintance.”
- “No single factor or combination of factors can fully explain why someone offends sexually, though some factors may combine to increase people’s tendency to offend. These factors are ... [physiological, sociocultural, developmental] and situational/circumstantial (e.g. having easy access to victims...).”
- “About 12% to 24% of sex offenders will reoffend.”

WHEREAS, the Town Board also finds these statistics of the U.S. Department of Justice to be shocking and a call to action⁵:

- “Approximately 1.8 million adolescents in the United States have been victims of sexual assault.”
- “An estimated 60% of perpetrators of sexual abuse are known to the child but are not family members, e.g. family friends, babysitters, child care providers, neighbors.”

WHEREAS, in September of 2015 the State of Wisconsin Department of Corrections conducted an extensive study of sex offender recidivism between 1997 and 2010, and found that in total there were 631 instances (4.9% of all releases) of sexual re-offending, and the top two types of re-offense were second degree sexual assault of a child (103 offenses), first degree sexual assault of a child (100 offenses); and within the top 10 re-offenses also were sex with a child ages 16 or older (46 offenses) and repeated sexual assault of the same child (33 offenses); and the study concludes that of all the repeat offenses committed by sex offenders, “sex offenses that specifically reference children represent a greater proportion of the whole;”⁶

WHEREAS, data within the Town of Delafield may not provide a large enough sample size for statistical analysis, however, there is no reason to believe the outcomes would be different in the Town than were demonstrated statewide by the Department of Corrections data; and

WHEREAS, the creation of Sex Offender Residency Restrictions and Safety Zones by municipal ordinance around locations where children regularly congregate is a reasonable step toward protecting children and deterring recidivism by reducing the opportunity for new offenses within our community; and

⁵ U.S. Department of Justice, National Sex Offender Public Website “Facts and Statistics”

⁶ Joseph R. Tatar II, Ph.D. and Anthony Strevler, M.S.W., Sex Offender Recidivism After Release from Prison, Office of the Secretary, Research and Policy Unit. State of Wisconsin Department of Corrections (September 2015).

WHEREAS, the Town Board has reviewed many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions⁷, and has been fully advised in the matter; and

WHEREAS, the literature on the subject includes some studies that support the practice of imposing sex offender residency restrictions and others that are critical of the practice; and

WHEREAS, the Town Board finds it to be significant that some of the key studies that have concluded that sex offender residency restrictions have limited effectiveness have added significant qualifications to that conclusion; e.g. in “An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri,” (Huebner, et al., 2013), the authors generally do not support sex offender residency restrictions, but nevertheless find that following adoption of sex offender residency restrictions “the rate of recidivism for technical violations significantly decreased for Missouri sex offenders...” (id. at 9) and “the number of sex offense convictions did decline...” in Missouri (id. at 10); and

WHEREAS, in review of the residency restrictions of communities throughout Waukesha County and its environs, the Town Board finds that many of such communities have an “original domicile restriction,” which allows each community to take back its own while not adding an additional burden of more than its own sex offenders to its community; such burdens including neighborhood and citizen concerns and responses, risks of recidivism, and potential property value impacts⁸; and

⁷ These include but are not limited to: Recidivism of sex offenders released from prison in 1994, U.S. Department of Justice, Office of Justice Programs, copyright November 2003; The final report of the Commission to Improve Community Safety and Sex Offender Accountability, of the State of Maine, dated January 2004; Sex Offender Recidivism Prediction, Correctional Service of Canada dated October 14, 2004; Recidivism of Sex Offenders, May 2001, Center for Sex Offender Management; Treating Sex Offenders, Wisconsin Lawyer Magazine, October 1994; The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review, Marcus Nieto and Professor David Jung, California Research Bureau, California State Library, August 2006; Sex Offenders: You Are Now Free to Move About the Country, and Analysis of Doe v. Miller’s Effects on Sex Offender Residential Restrictions, UMKC Law Review, Spring 2005; There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan’s Laws, Linden and Rockoff, National Bureau of Economic Research, May 2006; The Effect of Proximity to a Registered Sex Offender’s Residence on Single-Family Housing Selling Price, Goliath Appraisal Journal, July 2003; Sex Offenders, Sexually Violent Predators, Punishment, Residence Restrictions and Monitoring, California Proposition 83, Analysis by the Legislative Analyst; An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri, Huebner, et al., 2013.

⁸ Property value impacts have been noted in numerous studies, including “The Effect on Proximity to a Registered Sex Offender’s Residence on Single-Family House Selling Price,” Larsen, J., Lowery, K., & Coleman, J. (2003), *The Appraisal Journal*, 71(3), 253-65; and “Neighborhood Tipping and Sorting Dynamics in Real Estate; Evidence from the Virginia Sex Offender Registry,” Wentland, Bain, Brastow, Stoll, Waller, *Social Science Research Network*, April 2013. Property values are only one such impact. Stop it Now, a non-profit organization devoted to sex offender research, offers this advice to those concerned about sex offenders moving into a neighborhood, among others: Create a family safety plan; attend notification meetings; notify the police of suspicious activity; and don’t wait to take action for prevention. At a minimum, this heightened awareness and activity burdens the families and neighbors where sex offenders are placed, and collectively this burdens the Town staff and resources, for every Sex Offender placement.

WHEREAS, if the Town of Delafield would not have an original domicile restriction, the Town would have open doors for non-resident sex offender residency when other communities have closed doors, inviting a substantial increase in child sex offender placements, with the related adverse impacts on the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town Board recognizes the merits, mentioned in some studies, of individualized consideration of the risks and benefits of residency restrictions on an offender-by-offender basis, and the Town has carefully considered how it can best provide this individualized consideration, and hereby intends to create an Appeals Board with sufficient jurisdiction to consider the original domicile restrictions to ensure that the ordinance does not banish sex offenders from the Town; and

WHEREAS, the Town Board recognizes that it cannot eliminate all risk of child sex offender re-offense, and it must balance all of the competing public policies, but intends by these regulations to strike the legislative balance that is appropriate for the circumstances of the Town of Delafield; and

WHEREAS, it is not the intent of this ordinance to banish sex offenders from residing within the Town of Delafield and careful attention has been given to ensure that there are ample locations for sex offenders to reside within the Town of Delafield in compliance with the requirements of this ordinance:

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 10 of the Town of Delafield Municipal Code entitled, "Public Nuisances," Section 10.11 entitled, "Designated Sex Offenders Regulated" is hereby repealed and re-created as depicted in attached Exhibit A, which is incorporated herein by reference.

SECTION 2: SEVERABILITY.

The terms and provisions of this Ordinance are severable. Should any term or provision of this Ordinance be found invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect, or, to the extent permitted by law, the court is authorized to substitute an alternative term or provision for the invalid term or provision.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect and be in full force from and after its passage and posting according to law.

PASSED and ADOPTED this ____ day of _____, 20__.

Ron Troy, Town Chairman

Attest:

Dan Green, Town Administrator – Clerk/Treasurer

Exhibit A

10.11 **DESIGNATED SEX OFFENDERS REGULATED.**

1. Findings and Intent.

- (a) This Chapter is a regulatory measure aimed at protecting the health and safety of children from the risk that convicted sex offenders may re-offend in locations close to their residences. [The Governing Body has closely considered this question and had made numerous findings and expressions of intent within the preamble to the Ordinance which adopts this Code Section which are incorporated herein by reference.](#) The Governing Body finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new sexual assault. The Governing Body further finds that, given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, and other places children frequent. The Governing Body finds and recognizes that, in addition to schools, there are other areas where children congregate or play.
- (b) This Chapter is not intended to impose a criminal penalty or punishment of sexual offenders, but rather to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of children in the Town by creating areas around locations where children regularly congregate in concentrated numbers where sexual offenders and sexual predators are prohibited from loitering and/or establishing temporary or permanent residence and by regulating certain activities that may be used by sexual offenders to prey upon children.
- (c) Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of re-offense, the Governing Body finds that there is a compelling need to protect children where they congregate or play in public places.

2. Definitions.

For purposes of this Chapter, the following terms shall have the following meaning unless the context otherwise requires:

- (a) Child means a person under the age of 18.
- (b) Children means two or more persons under the age of 18.
- (c) Child Safety Location means the site upon which any of the following are located without regard to whether such site is located within the geographic limits of the Town of Delafield:
1. Facility for children;
 2. Group home, as defined in Wis. Stat. sec. 48.02(7);
 3. Library, that is held open for use by the public;
 4. Licensed day care center as defined in Wis. Stat. sec. 48.65;
 5. Public or private primary, elementary, secondary, middle, junior high, or high school;
 6. Recreational trail, playground or park;
 7. Specialized school for children, including, without limitation, a gymnastics

- academy, dance academy, or music school; the Schoenstatt Retreat Center is a specialized school;
- 8. Swimming pool, wading pool, or aquatic facility held open for use by the public;
- 9. A public or private golf course or range;
- 10. Church or places of worship;
- 11. Movie theater; and
- 12. Delafield Town Hall.

(d) Child Safety Zone means any place within the Town that is physically located within two thousand feet (2,000') of any Child Safety Location.

~~(e) Crime Against Children means any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction where the victim is a child, respectively:~~

- ~~§ 940.225(1), First degree sexual assault;~~
- ~~§ 940.225(2), Second degree sexual assault;~~
- ~~§ 940.225(3), Third degree sexual assault;~~
- ~~§ 940.22(2), Sexual exploitation by therapist;~~
- ~~§ 940.30, False imprisonment - victim was minor and not the offender's child;~~
- ~~§ 940.31, Kidnapping - victim was minor and not the offender's child;~~
- ~~§ 944.01, Rape (prior statute);~~
- ~~§ 944.06, Incest;~~
- ~~§ 944.10, Sexual intercourse with a child (prior statute);~~
- ~~§ 944.11, Indecent behavior with a child (prior statute);~~
- ~~§ 944.12, Enticing child for immoral purposes (prior statute);~~
- ~~§ 948.02(1), First degree sexual assault of a child;~~
- ~~§ 948.02(2), Second degree sexual assault of a child;~~
- ~~§ 948.025, Engaging in repeated acts of sexual assault of the same child;~~
- ~~§ 948.05, Sexual exploitation of a child;~~
- ~~§ 948.055, Causing a child to view or listen to sexual activity;~~
- ~~§ 948.06, Incest with a child;~~
- ~~§ 948.07, Child enticement;~~
- ~~§ 948.075, Use of a computer to facilitate a child sex crime;~~
- ~~§ 948.08, Soliciting a child for prostitution;~~
- ~~§ 948.095, Sexual assault of a student by school instructional staff;~~
- ~~§ 948.11(2)(a) or (am), Exposing child to harmful material-felony sections;~~
- ~~§ 948.12, Possession of child pornography;~~
- ~~§ 948.13, Convicted child sex offender working with children;~~
- ~~§ 948.30, Abduction of another's child;~~
- ~~§ 971.17, Not guilty by reason of mental disease - of an included offense;~~
- ~~§ 975.06, Sex Crimes Law, commitment.~~

~~(f)~~(e) Domicile means an individual's fixed and permanent home where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return provided, however, that no individual may have more than one domicile at any time. Domicile does not include a residence for any special or temporary purpose.

~~(g)~~(f) Facility for children means a public or private school, a group home, as defined in Section 48.02(7), Wisconsin Statutes, a residential care center for children and youth, as defined in Section 48.02(15d), Wisconsin Statutes, a shelter care

facility, as defined in Section 48.02(17), Wisconsin Statutes, a daycare center licensed under Section 48.65, Wisconsin Statutes, a daycare program established under Section 120.13(14), Wisconsin Statutes, a daycare provider certified under Section 48.651, Wisconsin Statutes, or a youth center, as defined in Section 961.01(22), Wisconsin Statutes.

~~(h)~~(g) Minor means a person under the age of 17.

~~(i)~~(h) Park means any area held open for use by the public for active or passive leisure purposes including, but not limited to, any park, parkway, recreation or open space area, beach, playground, conservation area, lake access point or recreational trail. "Park" also means any private lake access point or private beach that owners of two or more lots or condominium units are entitled use, pursuant to a deed restriction, subdivision plat, condominium declaration, condominium plat, homeowner's association regulation or similar rights of common use.

~~(j)~~(i) Permanent Residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.

(j) Sex Offender shall mean:

1. Any person who is required to register under §301.45, Wis. Stats., for any offense against a child or any person who is required to register under §301.45, Wis. Stats., and who is subject to the Special Bulletin Notification process set forth in §301.46(2) and (2m), Wis. Stats.;

4.2. Any person subject to the sex crimes commitment provisions of §975.06, Wis. Stats.;

—Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under §971.17(1j), Wis. Stats.

~~(k) means a person who has been convicted of, found delinquent of, or found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children.~~

(l) Sexually Violent Offense has the meaning set forth in Wis. Stat. sec. 980.01(6), as amended from time to time.

(m) Temporary Residence means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's domicile.

3. Residency Restrictions for Sex Offenders, Exceptions.

(a) Child Safety Zone Restriction. Subject to the exceptions in Section 3(c), no ~~s~~Sex ~~e~~Offender shall establish a permanent residence or temporary residence within the Town of Delafield that is within a Child Safety Zone, as determined by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of any Child Safety Location.

(b) Original Domicile Restriction. In addition to Section 3(a), but subject to the exceptions in Section 3(c), no ~~s~~Sex ~~e~~Offender, shall establish a permanent or temporary residence within the Town of Delafield and no supervised release of a ~~s~~Sex ~~e~~Offender shall be established in Town of Delafield unless such person was

domiciled in the Town of Delafield at the time of the offense resulting in the ~~person Sex Offender's most recent conviction, for committing the sexually violent offense and/or crime against children.~~ The original domicile restriction shall only apply to Sex Offenders whose applicable crimes or offenses were committed after [clerk to insert date] when an original domicile restriction was first enacted.

- (c) Exceptions. A ~~sSex eOffender~~ may not be found to be in violation of the residency restrictions in Section 3(a) if the ~~sSex eOffender~~ establishes that any of the following apply:
1. The person was domiciled in the Town of Delafield prior to January 11, 2011, provided, however, that if the person was then subject to Wis. Stat. Sec. 301.45, the person must have also reported and registered the residence pursuant to Wis. Stat. Sec. 301.45 prior to such date to take advantage of the exception.
 2. The person is a minor and is not required to register under Wis. Stats. Sec. 301.45 and Sec. 301.46.
 3. The Child Safety Location began after the ~~sSex eOffender~~ had established the permanent residence or temporary residence and reported and registered the residence if required pursuant to Wis. Stat. Sec. 301.45.
 4. The ~~sSex eOffender~~ is subject to an active court order to serve a sentence or is otherwise involuntarily required to reside in a jail, prison, juvenile facility, or other correctional institution or mental facility within the Child Safety Zone.

(d) Petition for Exemption.

1. A Sex Offender may seek an exemption from this Section 10.11 by petitioning to the Sex Offender Residence Board ("Residence Board").
2. The Residence Board shall consist of three citizens residing in the Town. Members shall be selected by the Town Chair subject to the approval by the Town Board. Members shall serve for a term of five (5) years and shall serve no more than two (2) consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one (1) year, a second member serving three (3) years and the third member serving five (5) years.
3. The Residence Board shall approve an official petition form. The Sex Offender seeking an exemption must complete the petition and submit it to the Town Clerk who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Town's interest in promoting, protecting and improving the health, safety and welfare of the community. Applicable factors for the Residence Board's consideration shall include, but are not limited to:
 - a. Nature of the offense that resulted in sex offender status

- b. Date of offense
- c. Age at time of offense
- d. Recommendation of probation or parole officer
- e. Recommendation of Police Department
- f. Recommendation of any treating practitioner
- g. Counseling, treatment and rehabilitation status of sex offender
- h. Remorse of sex offender
- i. Duration of time since sex offender's incarceration
- j. Support network of sex offender
- k. Relationship of sex offender and victim(s)
- l. Presence or use of force in offense(s)
- m. Adherence to terms of probation or parole
- n. Proposals for safety assurances of sex offender
- o. Conditions to be placed on any exception from the requirements of this Ordinance

4. The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the Sex Offender and the Town of Delafield Police Department.

4. Renting Real Property to Sex Offenders, Restricted.

No person shall let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by a §Sex eOffender contrary to the provisions of Section (3) of this Ordinance.

5. Prohibited Activities by Sex Offenders, Exception.

- (a) Prohibited Activities by Sex Offenders. Except as provided in subsection 5(b), no §Sex eOffender shall participate in a holiday event in the Town of Delafield involving one or more child by means of distributing candy or other items to such child or children in relationship to Halloween, wearing a Santa Claus costume in a public place in relationship to Christmas, or wearing an Easter Bunny costume in a public place in relationship to Easter, or other similar activities that may, under the circumstances then present, tend to entice a child to have contact with a §Sex eOffender.
- (b) Exception. Events in which the §Sex eOffender is a parent or legal guardian of the child or children involved are exempt from the provisions of Section (5)(a) of this Ordinance provided that no child or children other than a child or children of the §Sex eOffender are present at the event.

6. Loitering by Sex Offender Prohibited, Exception.

- (a) Loitering by Sex Offender. No §Sex eOffender shall loiter or prowl on or within 200 feet of any Child Safety Location, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of the persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon

appearance of a law enforcement officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a law enforcement officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

- (b) Exception. The prohibitions set forth in section 6(a) of this Ordinance shall not apply where the sSex eOffender is a minor who is with one or both of his or her parents or guardian at the time of the offense or the actor was exercising First Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

7. Child Safety Zone Map.

The Town Clerk's Office shall maintain an official map showing Child Safety Zones within the Town. The Town Clerk's Office shall update the map at least annually to reflect any changes in the location of Child Safety Zones. The map is to be displayed in the office of the Delafield Town Clerk. In the event of a conflict, the terms of this Ordinance shall control. In no event shall a failure to update the map in compliance with this Ordinance preclude the prosecution or conviction of any sSex eOffender under this Ordinance.

8. Penalties.

- (a) Any violation of this ordinance shall be subject to the penalties and remedies as set forth in Section 25.04 of this Code. Each day of violation shall constitute a separate offense.
- (b) In addition and not to the exclusion or prejudice of such other penalties and remedies as may apply, violation of Section 3 or Section 4 of this Ordinance shall also constitute a public nuisance, which the Town may enforce by action or proceeding to enjoin or abate such public nuisance.

9. Exception for Placements under Chapter 980 of the Wisconsin Statutes.

(a) To the extent required by Section 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this Chapter, the Town of Delafield hereby exempts and may not enforce any portion thereof that restricts or prohibits a Sex Offender from residing at a certain location or that restricts or prohibits a person from providing housing to a Sex Offender against an individual who is released under Wisconsin Statutes Section 980.08, or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Chapter 980 of the Wisconsin Statutes, the individual is residing where he or she is ordered to reside under Section 980.08 of the Wisconsin Statutes, and the individual is in compliances with all court orders issued under Chapter 980 of the Wisconsin Statutes.