

Harbor Commission Ordinance – 2019-5
Town of Bell

The Town Board of the Town of Bell, Bayfield County, State of Wisconsin, being duly assembled at a regular Town Board meeting on August 13, 2019, does hereby ordain that the Ordinance No. 2019-5 Creating a Harbor Commission is hereby created to read as follows:

Section (1) - Title. This ordinance is entitled the "Town of Bell Harbor Commission Ordinance"

Section (2) - Purpose. The purpose of this ordinance is to establish a Town of Bell Board of Harbor Commissioners and set forth its organization, powers and duties, to further the management and wise use of Harbor resources for the benefit of the Town.

Section (3) - Authority; Establishment. The Town Board of the Town of Bell, hereafter referred to as the Town, having been authorized by the Town meeting under sec. 60.10(2)(c), Wis. Stats., to exercise village powers, hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a seven (7) member Board of Harbor Commissioners, hereafter referred to as the Commission, under secs.30.37 and 30.38, Wis. Stats.

Section (4) - Membership. Subject to the approval of the Town Board, the Town Chairman shall appoint seven (7) members to the Commission. Each member shall be a qualified elector of the Town of Bell and shall have been a resident of the Town for at least three (3) years. One member of the Commission shall be a Town Board member, who may be the Town Board Chairperson. Terms shall be for three (3) years except in making initial appointments. Two Commissioners shall be appointed to Position 1 and 2 and will serve until the first regularly scheduled April meeting. Two Commissioners shall be appointed for Positions 3,4 and shall serve until the second regularly scheduled April meeting. Two Commissioners shall be appointed to Positions 5 and 6 and will serve until the third regularly scheduled April meeting. All subsequent appointments shall be for 3 years. One Town Board member will be appointed to fill position 7, The Commissioner who is a Town Board member shall serve for a term expiring with the Town Board members elective term.

Every effort shall be made to adequately represent the interests of the various stakeholders. Including representatives of commercial enterprises that conduct business within the Town of Bell.

Section (5) - Appointments. The Town Board Chairperson shall appoint the members of the Board of Harbor Commissioners. All appointments are subject to confirmation by the Town Board. No more than one Town Board member can serve on the Harbor Commission at any time. In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board members elected. Any citizen appointed to the Board of Harbor Commissioners shall take and file the oath of office within five (5) days of notice of appointment, as provided under secs. 19.01 and 60.31, Wis. Stats.

Section (6) - Organization, Officers. As soon as possible after the appointment and confirmation of the members of the Commission, they shall meet and organize by electing from among their members a president and a vice president. The Commission shall hold meetings at such times and places as it determines, but no less than 4 times per year, and may adopt such bylaws consistent with law as seem practicable for its government. The Commission shall give proper public notice

of all meetings and all meetings are open to the public. The commission shall maintain minutes of its meetings and all such minutes shall be open to public inspection.

Section (7) - Vacancies. A person who is appointed to the Commission shall serve until a successor has been appointed and qualified. The successor shall serve for the remainder of the term.

Section (8) - Compensation; Expenses. The members of the Commission shall serve without compensation. A stipend of \$40 per meeting shall be provided to reimburse reasonable costs and expenses, as allowed under Section 60.321, Wis. Stats. Additional travel and other commission related may be reimbursed subject to approval of the Town Board. Commissioners may refuse the stipend.

Section (9) - Experts & Staff. The Commission shall employ a secretary, not a member of the Commission, and fix the secretary's salary, and may employ such other persons, including a harbor master, as it deems necessary for the proper performance of its functions, and fix their duties and compensation. If someone other than a member of the Commission volunteers for an employment position, the Commission may consent to engage the person on a volunteer basis.

Section (10) - Harbor Defined. The Commission shall produce a map that defines the lands, navigation channels, boat launch, public marina, parking lots over which it has jurisdiction. Such map shall be reviewed and approved by the Town Board and, once approved, said map shall be and is hereby incorporated into this ordinance. The area identified on the approved map as the Harbor shall be the Harbor for all purposes of this ordinance.

Section (11) - Expenditures. The Town Board shall maintain a Harbor Fund and from time to time within its discretion make appropriations for this fund. Any funds paid out shall be done on orders signed by the President and Secretary of the Commission. Subsequent to this approval such orders, such as invoices shall be presented to the Town Clerk for payment. All such claims made by the Commission shall be entered in its minutes.

Section (12) – Contracts; competitive bidding; exceptions.

- A. Competitive Bidding Required. Except as otherwise provided in this section, all work to be let relative to the construction, repair or maintenance of the Harbor or Harbor facilities, and all purchases of equipment, supplies or materials relative to carrying out the purposes of the ordinance related to the Harbor shall be by contract awarded to the lowest competent and reliable bidder in accordance with the laws of this state and applicable Town ordinances.
- B. The Commission is authorized to let contracts relative to construction, repair or maintenance of the Harbor or Harbor facilities or the purchase of equipment, supplies or materials relative to carrying out the purposes of the statutes relating to the Harbor. If the Commission determines that it is not equipped to handle the contracting formalities required under this section, it may by resolution defer to the Town Board and or Town Department all or part of its functions under this section.
- C. EXCEPTIONS TO COMPETITIVE BIDDING. Subsection (1) does not apply in any of the following cases, and work to be done or equipment, supplies or materials to be acquired may be contracted for or acquired without competitive bidding and in such manner as the Commission directs:

1. The work to be done or equipment, supplies or materials to be acquired will cost less than \$1,500.
2. The equipment supplies or materials to be acquired is a patented article or process or an article or process made by one party only.
3. The work to be done or equipment, supplies or materials to be acquired involves an emergency repair as set forth in sub. (D).
4. The work is done by the Town Crew or Town Employees

D. EMERGENCY REPAIRS. Whenever repairs become necessary to any Harbor facility which, in the judgment of the Commission, constitutes an emergency in that it interrupts the ordinary use and operation of such facility, the Commission may order such repairs to be made by some competent party without compliance with competitive bidding or the intervention of a formal contract. In all cases of such emergency repairs the Commission shall immediately report the circumstances thereof, including the agreed price or estimated costs of the repairs, to the Town Chairman and shall also immediately send a copy of such report to the Town Clerk. Whenever any party is liable, under a lease or otherwise, to reimburse the Town for repairs or cost of maintenance of such Harbor facility, the Commission shall also send a copy of such report to the party so liable.

E. COMPETENCY AND RELIABILITY OF BIDDERS. Whenever any bidder for any work to be let by the Commission is, in the judgment of the Commission, incompetent or otherwise unreliable for the performance of the work for which the bidder bids, the Commission may accept the bid of the person who, in its judgment, is the lowest competent and reliable bidder for such work, stating its reasons therefor, or may reject all bids and relet request for bids. The Commission may permit a sum of money or a certified check payable to its order to be filed with any bid or proposal in such an amount as in its judgment will save the Town from any loss if the bidder fails to execute a contract pursuant to law, in case the bidder's bid is accepted and the contract awarded to the bidder.

F. OPTIONAL CONTRACT PROVISIONS. The Commission may insert in the specifications of the work reasonable and lawful conditions as to hours of labor and the residence and character of workers to be employed by the contractor and especially, so far as is practicable in the judgment of the Commission, such reasonable and lawful conditions as will tend to confine employment on such work, in whole or in part, to permanent and bona fide residents of this state. The Commission shall demand of such bidders and contractors that all contracts shall be let subject to chs. 102, 103 and 105, Wis. Stats., to the end that the Commission and the Town shall be held harmless. The Commission may reject any or all bids or parts thereof for any such work or supplies or materials.

G. CONFLICTS WITH FEDERAL REGULATIONS. Contracts for projects involving federal funds shall be let under such regulations and conditions as are prescribed by the federal agency controlling such funds, so far as such regulations and conditions conflict with this section.

Section (13) - Budget Requests. On October 1 of every year, the Commission shall file with the Town Treasurer, a budget request for the following year.

Section (14) - Revenues. All revenues received from the activities of the Commission shall be paid into the general fund of the Town. The Town Treasurer shall keep a separate record of all such receipts.

Section (15) - Limits on Obligations. The Commission shall not obligate itself or the Town for an amount greater than the balance in the Harbor Fund defined in section 12a., above.

Section (16) - Area of Authority. Subject to the laws of the state of Wisconsin and of the United states, the Commission shall have jurisdiction over the Harbor described in section 11 above. The Commission has authority to make and expend funds for repairs. Improvements, including capital improvements, require approval of the Town Board.

Section (17) - Policy. The Commission shall have exclusive control over the day to day operation of the Harbor and Harbor facilities. The Town shall have exclusive control of the governmental aspects relating to public health, order and safety. All powers not expressly granted to the Commission in this ordinance are reserved for the Town.

Section (18) - Assistance from Town Departments. The Commission may make written requests to any officer or department of the Town for assistance in the performance of its duties and such officer or agency shall comply with such request if the requested assistance involves the type of work normally performed by such officer or agency and the assistance will not substantially affect the budget of such officer or agency. If such assistance requires coordination with any outside contractor or agency, the affected Town officer or department shall be party to any specification defining the scope and performance of the work to be done. If a difference arises between the officer or department and the Commission, the ruling of the Town Board with respect thereto shall be final.

Section (19) - Harbor Operation. The Commission shall have the following Duties:

- A. Make necessary plans for Harbor improvements
- B. Acquire land subject to approval of the Town
- C. Assign berths at public marina
- D. Maintain Harbor facilities.
- E. Operate municipal harbor craft, such as, tugs, dredges, and barges.
- F. Adopt rules to facilitate the exercise of its powers and duties under this subsection. copies of such rules shall be made available to interested persons upon request.
- G. Operate and/or lease publicly owned piers, wharfs, Harbor lands (Harbor Shops), berths (slips) provided that all such leases shall be entered in the minutes of the Commission. All such leases shall require the Lessor to have a liability insurance policy with a minimum of coverage the Commission determines appropriate for the leased property. The Town Board shall approve the schedule of all such minimum liability coverages. The Town shall be listed as an additional insured on all such policies. All such policies shall be with accredited insurance companies.
- H. The Commission shall be guided by a policy designed to maintain the operation of the Harbor in a continuous, peaceful and efficient manner and shall maintain its services so as

to effectuate this policy and shall handle without discrimination, any valid and legitimate request for service or lease.

I. The Commission shall fix and regulate all fees and charges for use of the publicly owned and operated harbor facilities and for other services rendered. All such fees and charges are subject to the approval of the Town. Copies of the schedule of fees and charges shall be made available to interested persons upon request. Equal fees shall be charged for equal services except that higher fees may be charged for boats that are not registered in the State of Wisconsin or owned by persons not residents of the state of Wisconsin, and boats covered in Wisconsin statute 30.51 (2)(3)3, 5 or 9 and 30.51 (2) (c) 3.

J. The Commission shall require that persons leasing slips for berthing boats used for carrying passengers for a fee, such as boat tours or charter fishing, provide proof of USCG OUPV (6-pack) for tours of 6 or fewer persons or Master 25-200 Near Coastal Certification for all tours of more than 6 persons. If providing sailboat tours, a sailing endorsement is required. All persons operating such boats shall have these required certifications. Additionally, any tour with over 6 passengers would also require a C.O.I. "Certificate of Inspection" for the vessel.

K. The Commission shall maintain an adequate system of accounts with respect to its operations, which system of accounts shall be in conformity with the system used by the Town. The Commission shall maintain statistics with respect to the traffic and finances of the Harbor, public marina and boat launch.

L. The Commission may engage in activities designed to promote traffic and use of the public marina, boat launch, harbor shops, and all Harbor facilities.

M. The Commission shall bring the Town's attention any matter or concern the Commission believes is in the public interest.

N. The Commission shall exercise duties and responsibilities in conformance with state of Wisconsin statutes sections 30.37 and 30.38

Section (20) - Violation of Commission Rules. Any person violating posted regulatory rules as prescribed by the Commission for the use of Harbor facilities shall be subject to forfeiture of their lease and other fines and penalties determined and posted by the Town or the Commission. Such fines and penalties shall be approved by the Town before posting.

Section (21) - Annual Report. The Commission shall make a report annually to the Town, giving an account of its activities and an account of its revenues and expenditures in the preceding calendar year. Such report may contain such other matters as the Commission deems of interest, including such recommendations as it deems to be for the best interest of the Town and the Harbor, Harbor facilities and commercial interests.

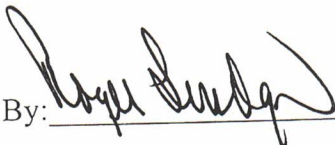
Section (22) - Savings Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance is held for any reason or be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Town of Bell hereby declares that it would have passed and adopted this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section (23) – Effective Date.

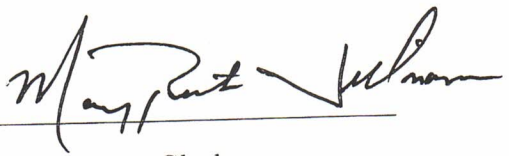
Following passage by the Town of Bell Town Board, this ordinance shall take effect thirty (30) days after the date of posting as provided by sec. 60.80, Wis. Stats.

Adopted by the Town Board of Supervisors for the Town of Bell on the 13th day of August 2019.

By:  _____

Roger Lindgren, Chairperson

Date Published: 9/10/19

Attest:  _____

Mary Beth Tillmans, Clerk