

**TOWN OF HUMBOLDT**  
**CHAPTER 26**  
**PARK AND RECREATION BOARD AND DEPARTMENT**

**TOWN OF HUMBOLDT**  
**Ordinance Creating and Empowering the Town of Humboldt Recreation**  
**Department and Recreation Board**

Humboldt Code of Ordinances Chapter No. 26

Whereas the Town Board of the Town of Humboldt pursuant to information gathered at duly noticed public hearings is informed and believes that the establishment, operation and maintenance of a department of public recreation will promote the health, safety and welfare of the Humboldt community;

Whereas the Town Board has complied with Wisconsin Statutes §65.90 by including the Recreation Department created by this Ordinance as a separate line item in the Humboldt municipal budget;

Whereas the Town Board has decided that this Ordinance shall be the determinative single source for the organizational structure, operating rules and authority of both the Humboldt Recreation Department and the Humboldt Recreation Board; and

Whereas by this Ordinance the Town hereby creates a Recreation Department and Recreation Board to: research and identify Recreation projects; develop approved Recreation projects and Facilities; maintain established Recreation projects and Facilities for use by the Humboldt community; and obtain grants, donations and other private and public funding necessary to develop and maintain Recreation projects and Facilities for the benefit of the Town of Humboldt.

Now therefore, be it hereby ordained by the Town of Humboldt Town Board that:

**SECTION 1 – TITLE AND PURPOSE**

- 1.1 The title of this Ordinance shall be: “**Town of Humboldt Recreation Department and Recreation Board Ordinance**”. The purposes of this Ordinance are: initially for the Town of Humboldt to construct and maintain a playground with playground equipment at the Humboldt Community Center as the first project and Facility in the Town; and thereafter to research, develop, construct and maintain other recreation projects and Facilities both within and outside of the boundaries of the Town of Humboldt but in all instances for the health, safety, welfare and convenience of the residents of Humboldt.

## SECTION 2 – AUTHORITY & ADOPTION OF ORDINANCE

2.1 **AUTHORITY.** This Ordinance is adopted pursuant to the authority granted to the Town Board of the Town of Humboldt pursuant to Wisconsin Statutes: §66.0123, §66.0301, §60.22, and §61.34.

2.2 **ADOPTION.** The Town Board of the Town of Humboldt, Brown County, Wisconsin, by this Ordinance, adopted at a duly noticed open public meeting with a quorum present and by roll call majority vote by the Town Board: for the purpose of providing Recreation opportunities and Facilities to enhance, protect and preserve the health, safety, welfare and convenience of the Town of Humboldt community; hereby creates and empowers the Humboldt Recreation Department and Humboldt Recreation Board subject to the Town Board's expressed and implied reserved power of approval.

## SECTION 3 – DEFINITIONS

The following capitalized words when used anywhere above or below this Section of this Ordinance, whether in bold or non-bold type shall mean:

3.1 **“Board”** means the Recreation Board of the Town of Humboldt.

3.2 **“Department”** means the Humboldt Recreation Department which is an agency of the Town of Humboldt. For the avoidance of doubt the Department shall have no other employees or personnel separate or apart from the Board and the Department shall be solely staffed and governed by the Board which is the custodian of all of the Department's original records.

3.3 **“Facility” or “Facilities”** means any and all public Recreation locations proposed by the Board and approved by the Town Board for development and administration by the Board, regardless whether the particular nature of the public Recreation activity includes land, improvements, or other Recreation activity programs approved by the Town Board and then established and administered by the Board to facilitate Recreation opportunities and activities for the Town.

3.4 **“Ordinance”** means this Town of Humboldt Recreation Department and Recreation Board Ordinance.

3.5 **“Recreation”** means and includes any outdoor or indoor activity undertaken for the purpose of exercise, relaxation, or pleasure including practice or instruction in any such activity or any other outdoor or indoor sport, game, physical or educational activity including all play activities, but does not include any organized team sport activity sponsored by the Board or Town.

3.6 **“Town”** means the Town of Humboldt, Brown County, Wisconsin.

3.7 **"Town Board"** means the Town Board of the Town of Humboldt.

3.8 **"Town Supervisor"** means the three elected Town supervisors including the supervisor designated as Humboldt's Town Chairperson.

3.9 **"Section"** when appearing as the symbol "§" means a section or subsection of the Wisconsin Statutes; but when appearing as the word "Section" or "Sections" or "Subsections" means a section, subsection or multiple sections or subsections of this Ordinance.

#### **SECTION 4 – ESTABLISHMENT AND AUTHORITY OF THE RECREATION DEPARTMENT AND BOARD**

4.1 **Creation.** Pursuant to §66.0123 the Department and the Board which conducts the Department's business are hereby created and organized as follows:

4.1.1 The Board shall consist of three (3) members appointed by the Town Chairperson. Each original Board member shall be appointed to an assigned seat numbered one through three.

4.1.2 The initial member appointed to Board seat number one shall serve a one year term. The initial member appointed to Board seat number two shall serve a two year term. The initial member appointed to Board seat number three shall serve a three year term.

4.1.3 Following the expiration of the initial terms all Board member appointments including re-appointments for each numbered seat shall be for a three year term.

4.1.4 All Board members shall serve gratuitously.

4.1.5 Public records of all Department and Board business actions shall be collected, created, filed, preserved and kept by the Board member designated by majority vote of the Board as the "Board Secretary". The Board Secretary shall be responsible for creating and timely posting agendas which comply with Wisconsin Open Meetings Law. The Board Secretary shall take minutes of all Board meetings, submit those minutes for subsequent approval by the Board, and preserve those along with all public records of the Board and Department's business activities. All original Department records shall be kept by the Board Secretary. Copies of all Department records collected or created during each calendar quarter shall be filed with the Town Clerk not later than the 15<sup>th</sup> day following the close of each calendar quarter. For the avoidance of doubt copies of all Department/Board records shall be filed with the Town Clerk not later than April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup> and January 15<sup>th</sup> of each year. The Town Clerk

shall maintain the Department/Board record copies as a backup to the original records kept by the Board Secretary.

4.1.6 A separate bank account and an up to date accounting of all funds received and expended by the Board shall be maintained and kept by the Board Secretary who shall timely file an annual report to the Town Board. All expenditures from the Department's accounts shall require two authorized signatures. One of the two required authorized signatories shall at all times be the Town Treasurer. In addition, the Board Secretary shall prepare from time to time such other financial reports as may be determined or requested by the Board or Town Board.

4.1.7 Liability and property insurance covering all Facilities shall be procured and provided by the Town Board, but a copy of the policy or endorsement covering the Facilities shall be provided to the Board.

**4.2 BOARD DUTIES, AUTHORITY AND LIMITATIONS.** Pursuant to §66.0123 the Board is by the following Subsections delegated the following authority subject to the reserved powers of approval and the other limitations set forth in: the Subsections to this Section, other Sections and Subsections of this Ordinance, or in subsequent amendments to this Ordinance.

4.2.1 The Board may conduct the activities of the Department and shall make an annual report to the Town Board which describes the Board's activities in the previous calendar year including receipts and expenditures. The Board's annual report to the Town Board shall be submitted not less than fifteen (15) days before the annual §66.10 Town meeting. The Board shall timely submit any other report(s) which may be requested by written resolution of the Town Board.

4.2.2 The Board may create and delegate the Board's authority to special working committees for projects involving existing or developing potential new Facilities. Provided however, Facilities may only be established and operated by recommendation of the Board and with the consent and approval of the Town Board. With the consent and approval of the Town Board, Recreation activities may be conducted at Facilities on: property owned, purchased or leased by the Town; on other public property under the custody of any other public authority, body or board; or on private property with the consent of its owners.

4.2.3 The Board shall request prior approval and authority from the Town Board to pursue fundraising or seek or accept particular grants, donations or engage in other fundraising activities. The Board shall not engage in any preliminary or other fundraising activities utilizing the name of the Town or the Department without the prior express written approval of the Town Board. Town Board approval is also required before the Board: accepts gifts and bequests of land, money or other property; or uses gifts and bequests in whole or in part and the income from any gifts or bequests or the proceeds from the sale of any such

donated property in the establishment, maintenance or operation of any new or existing Recreation Facility or activity.

4.2.4 The Board shall prepare and submit an annual budget proposal to the Town Board regardless of whether tax or assessment funding is being requested by the Board. The Board shall have a representative present at all Town Board budget work sessions and hearings which address the Department's proposed budget.

4.2.5 The Board shall not negotiate or enter into any contracts which bind the Town to purchase anything or compensate anyone for any service, or create any claim or demand against the Town without the prior express written approval of the Town Board.

4.2.6 The Board shall not offer to purchase or lease any real or personal property or accept any offer of free use of any real or personal property from any other government entity or any private individual or entity without the prior express written approval of the Town Board. Proffered gifts and bequests of land, money or other personal property shall not be accepted by the Board without the prior express written approval of the Town Board.

4.2.7 The Board shall fully cooperate with all audits which shall be made of the accounts of the Board in the same manner, at the same time and by the same firm which audits the Town.

4.2.8 As required by §66.0123(4)(d) every member of the Board shall furnish a surety bond in the amount fixed by the Town Board.

4.2.9 Every proposed cooperative agreement to develop any joint Facility with any other municipality must be negotiated and approved by the Town Board.

4.2.10 The Board may pursue legal actions seeking recourse through the filing of criminal, forfeiture or civil actions in court only with prior Town Board approval. The Board shall initiate, cooperate with and facilitate any: criminal investigation; any civil action investigation; or any insurance claim involving the Department, its business or patrons immediately without delay, but the Board Secretary shall in writing notify the Town Chairperson of the initiation of any such investigation or claim within three (3) days of its commencement. At its next regular monthly or at a duly noticed special Town Board meeting the Town Board by resolution shall expressly and specifically determine the extent of the delegation of authority to the Board as to the course, continuation, final determination or termination of any investigation or insurance claim initiated by the Board.

4.2.11 The Board Secretary shall provide the Town Clerk with the legal description and parcel number of each and every Facility developed and used for recreational activities.

4.2.12 The Board shall establish rules applicable to Facilities which govern the posting of signs, notices, solicitations, advertising literature, flyers, pamphlets of whatever nature on Facility property or any tree, shrub, post, barrel, container, building, or any other plant, structure, equipment or apparatus or improvement located upon a Facility. Those rules shall not prohibit distribution of literature by means of direct personal contact between the distributor and recipient to the extent permitted by law. Those rules shall not prohibit the posting of signs and notices at a Facility by the Board or in connection with any Recreation activity at a Facility but only as expressly permitted by other Board rule or resolution.

4.2.13 The Board may enter into contracts or issue licenses to sellers wishing to provide concessions or other products or services for sale at Facilities only with prior express written approval of the Town Board.

4.2.14 The use of bicycles, roller blades, skateboards and other non-motorized vehicles shall be regulated by Board rules applicable to those vehicles in the context of each particular Facility.

4.2.15 The Board shall post a sign in a conspicuous place at all appropriate Facilities providing contact information for the Board representative responsible for receiving all concerns or complaints concerning the condition of repair, apparent hazards or any other user safety concerns or suggestions regarding a Facility or any improvement or equipment located at any Facility.

4.2.15 At appropriate Facilities, the Board shall post signs designating the parking lots and/or parking areas serving the particular Facility.

4.2.16 The Board shall establish trash disposal and recycling policies for all Facilities. As to the initial Facility involving the installation and maintenance of playground equipment at the Town of Humboldt Community Center, the trash disposal and recycling policy shall strictly require and signs shall be posted at that Facility requiring that no trash or recyclables be left or disposed of at that Facility and that all users must remove and take away with them any and all trash or recyclables they bring to that Facility.

4.2.17 Subject to approval by the Town Board, the Board may propose rules regarding firearms, fireworks, pets, alcoholic beverages, sound amplification, seasonal opening and closing dates and other matters regarding Facilities.

4.2.18 The Board shall not sponsor any organized team sport activities at any Facility without the express prior written consent of the Town Board.

4.2.19 The Board shall not charge any fee for use, admission fee, or participation fee for any Facility without the prior express written approval of the Town Board.

4.2.20 The Board shall design, construct and operate all Facilities in compliance with Title II of the Americans With Disabilities Act and consistent with the civil rights protections provided to qualified individuals with disabilities. The Board shall review the ADA requirements and play areas and Facilities constructed in the Town shall comply with technical standards for accessible design governing Recreation programs and Facilities including but not limited to The Uniform Federal Accessibility Standard (UFAS) established under the Architectural Barriers Act and the Americans With Disabilities Act Accessibility Guidelines adopted by the United States Department of Justice. Generally the Board shall design and operate the Town's Recreation Facilities and programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities. The Board shall not propose or place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters. Recreation program requirements which tend to screen out individuals with disabilities like requiring a driver's license as the only acceptable means of identification are prohibited. The Board shall eliminate all unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy Town Recreation services, programs, activities or Facilities while recognizing that there are certain lawful eligibility standards and rules which are necessary for the provision of certain Recreation services, programs or activities. The Board shall not create any policy or rule, nor shall it administer any policy or rule which refuses to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability (e.g. the Board policy or practice may not refuse to allow a person with epilepsy to use the Town's Recreation Facilities or participate in the Town's recreation programs.)

4.2.21 The Board shall not ban or encumber the use of service animals at Facilities. Individuals with disabilities must be permitted to be accompanied by their service animals in all areas of the Facilities where other non-disabled members of the public are allowed. Provided however, the responsibility to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities does not require allowance of service animals if the introduction of animals would cause a fundamental alteration to the particular Recreation program. The Board shall otherwise in all instances make an exception to any rule prohibiting animals in public areas in order to admit guide dogs and other service animals assisting individuals with disabilities.



4.2.22 The Board shall in each instance consider whether the "safe harbor" provisions governing Recreation program or Facility accessibility and existing Town properties and improvements may apply and thereby either alter or eliminate any of the current ADA compliance requirements. When dealing with ADA issues, the Board should note that the law in effect at the time this Ordinance was adopted includes certain "safe harbor" provisions which grant exceptions to certain ADA requirements. For example, the ADA does not require retrofitting of existing buildings to eliminate barriers to access, but does establish a high standard of accessibility for new buildings. Any particular exception to be exercised or asserted on behalf of the Town shall first be expressly determined and authorized by Town Board resolution consistent with the particular facts and applicable law. The following are examples and information for Board and Town Board general information purposes only:

4.2.22.1 Structural impracticability when unique characteristics of terrain prevent incorporation of accessibility features.

4.2.22.2 The Town is not required to take any action that would result in a fundamental alteration in the nature of the service, program or activity or in undue financial and administrative burdens. But the Town and therefore the Board are required to take any other action, which if available would ensure that individuals with disabilities receive the benefits afforded to those who are not disabled, if provision of that benefit to the disabled would not result in a fundamental alteration of the nature of the service, program or activity or create an undue financial or administrative burden.

4.2.22.3 Integration of individuals with disabilities into the mainstream of society is fundamental to the purposes of the ADA. The Board shall not provide services or benefits to disabled individuals through programs that are separate or different unless the separate programs are necessary to ensure that the benefits and services provided to disabled individuals are equally effective. Even when separate programs of disabled and non-disabled individuals are permitted, a disabled individual still has the right to choose to participate in the regular non-disabled program. For example, it is not a law violation to offer Recreational programs specifically designed for children with mobility impairments, but it would be a law violation if children with mobility impairments were uniformly banned by Board rule or practice from participating in other Recreation programs.

4.2.23 The Board shall post appropriate warning signs regarding and restrict access to any known danger(s) located upon any Facility. When appropriate the Board shall procure and require written liability waivers from those who participate in Recreation activities at certain Facilities. The Board shall develop and post signs informing Recreation Facility participants that the participant is at all times responsible to do all of the following things: act within the limits of his or her ability; heed all warnings regarding participation in the Recreation activity; maintain control of his or her person and any equipment,

device or animal the person is using while participating in the Recreation activity; and refrain from acting in any manner that may cause or contribute to death or injury to himself or herself or to other persons while participating in the Recreation activity.

4.2.24 The Board shall establish and post other rules for use of the Facilities including rules governing days and hours of use, proper use and conduct while upon the Facilities. The rules of use shall contain the admonition that the Town will not permit any discrimination as to access or use of any Facility on any basis prohibited by State or United States law. Generally all Facilities shall be open to Town residents, invitees and visitors. The Board may when and where appropriate limit the use of certain Facilities at certain times based upon age, size or other health and safety based criteria. No Facility use restriction or use fee shall be established by the Board without the prior express written consent of the Town Board.

4.2.25 The Board shall propose and the Town Board shall approve a regular inspection schedule applicable to each Facility. The inspections shall ascertain the current condition and result in a written report to the Board as to the current condition of each Facility. In all cases where the inspection reveals that an apparent known danger exists at a Facility, the inspector shall immediately temporarily restrict access to and/or use of the Facility until corrective repairs can be made to eliminate any apparent or known danger observed during the inspection and noted in the inspector's report. The Board shall be responsible for procuring maintenance and repair of all Facilities.

**4.3 APPROVALS.** The following rules apply to Town Board approvals required pursuant to any Subsection of Section 4.2 above and the purchase of any land for Facilities:

4.3.1 The Section 4.2 Town Board approval requirements remain in full force and effect whenever one or more of the Board members are not a Town Board Supervisor. The Town Board approvals required pursuant to any Subsection of Section 4.2 above do not apply only if all three of the Board members are also Town Board Supervisors.

4.3.2 As provided in §60.10 every purchase of land by the Town must be authorized by resolution approved at an annual or special Town meeting.

## **SECTION 5 – FIRST AND SUBSEQUENT FACILITIES.**

**5.1 FIRST FACILITY.** Establishing a playground with playground equipment at the Town Community Center shall be the first Facility created pursuant to and governed by this Ordinance.

**5.2 SUBSEQUENT FACILITIES.** No provision of this Ordinance shall be construed as limiting the Board from researching, proposing and requesting Town Board approval for other Recreation activities proposed to be conducted at the Section 5.1 first Facility or for the development of other Facilities for the benefit of the Town. Projects proposed may or may not involve Facilities which are proposed to be constructed and maintained within the boundaries of the Town. Proposals may also be considered for Facilities for the Recreation benefit of the Town which are to be constructed and maintained in cooperation with and pursuant to a contract with a neighboring municipality or multiple neighboring municipalities pursuant to §66.0301.

## **SECTION 6 - EXCEPTIONS OR AMENDMENTS TO THIS ORDINANCE.**

**6.1** An exception nullifying any rule(s) contained in this Ordinance for purposes of any particular instance or case and any and all amendments to this Ordinance shall in every instance and case be in the form of a written resolution of the Town Board which expressly describes the exception or amendment granted or determined by the Town Board.

**6.1.1** Two copies of every original Section 6.1 resolution passed by the Town Board shall be prepared and certified by the Town Clerk. One certified copy of each Section 6.1 resolution shall be appended to this Ordinance in the Town's Code of Ordinances book. The second certified copy of each Section 6.1 resolution shall be delivered to the Board to be appended to the Board's copy of this Ordinance.

**6.1.2** If the Section 6.1 resolution amends this Ordinance, the Clerk shall make a handwritten notation in the margin at the Ordinance Section(s) amended by the resolution which states: "This Section has been amended by resolution of the Town Board please see appended resolution dated (insert date of resolution)."

## **SECTION 7 - SEVERABILITY.**

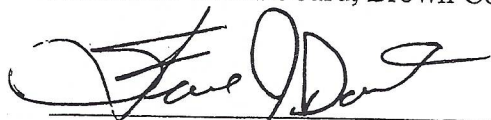
**7.1** If any provision of this Ordinance or its application to any person, entity or circumstance is held invalid by a final court judgment, the invalidity of that provision or application in that instance does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or invalid application, and to this end, the provisions of this Ordinance are severable.

## **SECTION 8 - EFFECTIVE DATE.**

**8.1** The Town Clerk shall lawfully post this Ordinance as provided in §60.80.

8.2 This Ordinance is effective on the date following the date of its posting by the Town Clerk.

Adopted this 4 day of Nov 2013 by majority vote of the Humboldt Town Board, Brown County, Wisconsin:

  
\_\_\_\_\_  
Steve Dart Town Chairman

Attest:   
\_\_\_\_\_  
Judy Baierl Town Clerk