

## **111.2 Berry Heritage Trust Ordinance**

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### **Town of Berry Dane County, Wisconsin**

#### **SECTION I - PURPOSE**

The Town of Berry hereby creates the Berry Heritage Trust, a fund of money made up of all voluntary contributions and donations to the Town of Berry. The Town of Berry does so to facilitate and encourage tax-free contribution of funds and resources toward activities and projects that benefit the Berry Community, particularly, but not limited to those projects that the Town may be reluctant to fund solely from tax revenues. To do so, a trust fund and appropriate accounting is hereby created to receive such funds and other donations. The administration of the Berry Heritage Trust Fund is to be independent of the Town Board, yet ultimately accountable to that Board, in order to give donors assurance that their donations will be used for their intended purposes, and not merely to enhance the town's general revenues. In addition, this ordinance provides the means for returning donations to the donors or their heirs should the town be unable to or unwilling to use the funds as intended,

#### **SECTION II - DEFINITIONS**

- 2.1 "Berry Heritage Trust" means the account into which all voluntary donations made to the Town of Berry shall be deposited or held for expenditure or use by the Berry Heritage Trust Board.
- 2.2 "Berry Heritage Trust Board" shall be a Board of Trustees, meeting at time to time, at the call of the Trust Chair, appointed by the Berry Town Chair, and confirmed by the Berry Town Board, consisting of three (3) trustees. The Board shall include one (1) sitting Town Supervisor who shall be the chairperson of the Board and two (2) Berry residents. All shall be appointed on staggered three year terms with the initial terms being one, two and three years to commence at the April Town Board meeting each year. Any Town Supervisor who leaves office while a member of the Berry Heritage Trust Board shall relinquish that position and another Town Supervisor shall complete the remainder of the term. Citizen members of the Berry Planning Commission may serve on the Berry Heritage Trust Board and shall be given priority consideration in such appointments.
- 2.3 "Budgetary Offset" means an amount reduced from the Town budget, commensurate with the amount of the donation(s), which has the practical effect of using donated funds to supplant a routine budget expenditure that would otherwise cover the same purpose. The Town of

Berry binds itself not to engage in budgetary offsets, but to treat the donations and the donor's intent as providing funds to be expended in addition to normal budgetary expenditures of the Town. If the Town Board has used the donation as a budgetary offset, the donor or his near relatives may request and receive a refund of the donation by application to the Berry Heritage Trust board, as reviewed by the Berry Town Board.

- 2.4 "Donation" means any amount of money or gift of property voluntarily given to the Town of Berry, whether restricted as to the intended use or given generally. No such donation shall bind the Town of Berry to the use directed by the benefactor until formally accepted by the Town of Berry Board by a majority vote, including any terms and conditions that shall be attached to the donation by the benefactor. Amounts that are given that are not accepted as donations shall be promptly returned to the benefactor. Upon acceptance of a donation, such donated funds or other resources shall be held in trust, separate from other Town of Berry funds and property, and shall be administered by the Berry Heritage Trust Board in accordance with the terms of the donation, if any, within a reasonable period of time, if not otherwise time limited by the donation contingencies.
- 2.5 "Petitioner" means the donor of the funds or resources, or a near family relative of the donor, should the donor be incapacitated or deceased, or any two members of the Berry Town Board who have filed a request for Town of Berry Board review of the administration of a donation.
- 2.6 "Trustee" means one of the trustees appointed to the Berry Heritage Trust Board, who shall administer the donations there held in trust as a fiduciary, fulfilling the terms and purpose of the donation, and acting in accordance with this Ordinance.

### **SECTION III – AUTHORITY OF THE BOARD**

- 3.1 Authority of the Board. The Berry Heritage Trust Board shall have authority to expend funds and other resources contained in the Berry Heritage Trust in accordance with the donor's wishes, and shall do so within reasonable period of time, or within the time period specified by the donation. Funds the Board is unable to expend in accordance with the benefactors wishes, or within the time period required, shall be returned to the benefactor, upon request. Such funds and resources shall be held in trust and accounted for in a separate account by the Town of Berry Clerk Treasurer, who shall include reports as to the amount of the account, expenditures, returns, and donations, on a regular basis to the Town of Berry Heritage Trust Board and the Berry Town Board.
- 3.2 Unrestricted funds and resources may be expended by the Berry Legacy Trust Board in its discretion, for the general improvement and welfare of the Town of Berry. Such expenditures are intended to augment, not replace, the usual budget.

### **SECTION IV – TOWN BOARD REVIEW**

- 4.1 Upon request of any two members of the Town of Berry Board, or upon petition by the donor, or a near family relative of the donor, should the

donor be incapacitated or deceased, the Town of Berry Board may review actions taken by the Berry Heritage Trust Board with respect to any donation, and, after hearing, shall affirm, reverse, or otherwise modify the actions of the Berry Heritage Trust Board, to be consistent with this ordinance and the intent of the donor.

- 4.2 Any Petitioner may petition by certiorari for review of the action of the Berry Town Board in regard to the donations which were the subject of the petition, as provided by law.

**SECTION V – EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Dated this 20<sup>th</sup> day of September, 2010.      Posted: September 21, 2010

Brenda Kahl, Clerk/Treasurer  
Chris Upper, Supervisor  
Bill Carlson, Supervisor

Anthony Varda, Chair  
Jim Laubmeier, Supervisor