

**TITLE 3**

**Finance and Public Records**

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**CHAPTER 1**

**Finance**

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**SEC. 3-1-1 PREPARATION OF TAX ROLL AND TAX RECEIPTS.**

Pursuant to Sec. 70.65(2), Wis. Stats., the City Clerk shall, in computing the personal tax roll, insert only the aggregate amount of state, county, school and local taxes in the roll opposite the parcel or tract of land against which the tax is levied in a single column opposite the name of the person against whom the tax is levied. Tax statements shall contain such information as required by statutory full disclosure requirements.

State Law Reference: Sections 70.65 and 74.08, Wis. Stats.

**SEC. 3-1-2 DUPLICATE TREASURER'S BOND ELIMINATED.**

- (a) **Bond Eliminated.** The City of Cedarburg elects not to give the bond on the City Treasurer provided for by Sec. 70.67(1), Wis. Stats.
- (b) **City Liable For Default of Treasurer.** Pursuant to Sec. 70.67(2), Wis. Stats., the City shall be obligated to pay, in case the City Treasurer shall fail to do so, all state and county taxes required by law to be paid by such City Treasurer to the County Treasurer.  
State Law Reference: Sec. 70.67, Wis. Stats.

**SEC. 3-1-3 CITY BUDGET.**

- (a) **Departmental Estimates.** On or before September 15 of each year, each officer, department, board and committee shall file with the City Administrator an itemized statement of disbursements made to carry out the powers and duties of such officer, department, board or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department, board or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.
- (b) **Consideration of Estimates.** The City Administrator shall consider such departmental estimates in consultation with the department head and shall then determine the total amount to be recommended in the budget for such department or activity.
- (c) **Proposed Budget.** On or before November 1st, the City Administrator, shall prepare and submit to the Common Council a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall including the following information:
  - (1) The expense of conducting each department and activity of the City for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.
  - (2) An itemization of all anticipated income from the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
  - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  - (4) Such other information as may be required by the Common Council and by state law.

- (d) **Copies of Budget.** The City Clerk shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the City Clerk during regular office hours.
- (e) **Hearing.**
  - (1) The Common Council shall have at the time the annual budget is submitted the draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation ordinance to the Council, it shall be deemed to have been regularly introduced therein.
  - (2) A summary of such budget and notice of the time and place where such budget and detail is available for Public inspection and notice of the time and place for holding the public hearing thereof shall be published in a newspaper of general circulation in the City at least fifteen (15) days prior to the time of such public hearing.
  - (3) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.
  - (4) A majority vote of the Common Council is required to adopt the proposed budget.

State Law Reference: Sec. 62.12, Wis. Stats.; 65.90 Municipal Budgets

#### **SEC. 3-1-4 CHANGES IN BUDGET.**

- (a) The Council may at any time, by a two-thirds (2/3) vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by publication within ten (10) days thereafter in a newspaper in general circulation in the City.
- (b) Before any transfer of funds are made from one account to another, the City Treasurer shall, in a separate memorandum, advise the Mayor and Common Council as to the remaining balances in the various funds should such transfer become effective.
- (c) No appropriation transfer under this Section is required where, within a departmental or activity appropriation an intra-departmental budget account is exceeded, provided that under-expenditures occurred in other intradepartmental accounts.

#### **SEC. 3-1-5 CITY FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATION.**

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-4 of this Chapter. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Common Council, to be paid out of the

income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

**SEC. 3-1-6 FISCAL YEAR**

The calendar year shall be the fiscal year.

**SEC. 3-1-7 PUBLIC DEPOSITORIES.**

The Common Council shall designate the public depository or depositories within this state within which City funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Treasurer and bondsman shall not be liable for such losses as are defined by state law. The Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury. Pursuant to state law, designated public depositories shall be required to pledge U.S. Treasury Notes equal in amount to any uninsured balance on the City's deposit.

State Law Reference: Chapter 34 and Sec. 62.12(7), Wis. Stats.

**SEC. 3-1-8 FINANCIAL CLAIMS AGAINST CITY.**

- (a) In order to permit the Common Council to regulate expenditures in accordance with budget provisions and to assist in setting up proper budgets, any vendor, contractor, employee or official of the City shall present an invoice of charges for services performed, expenses incurred and materials sold within thirty (30) days after the same has been ordered or requested, provided if the nature of the services are such that the same cannot be performed within such thirty (30) days, a statement of the nature of the services required and an estimate of its costs shall be filed with the City Clerk within thirty (30) days after the same has been ordered or requested. Bills so presented may be passed through the regular procedure provided therefor, except as provided in Subsection (d) below.
- (b) Any statement, bills or invoices not in compliance with Subsection (a) must be accompanied by detailed records substantiating the claim, and the same must be examined at a special meeting of the Finance Committee, which may request the presence of the claimant, demand further records, call witnesses or other procedures that it may deem necessary, or summarily disallow the claim, except for those instances which are provided for in Subsection (d), wherein the City Clerk may take such action and have such authority as is granted the Finance Committee in Subsection (d).
- (c) Excepting the situation covered by Subsection (d), the City Clerk shall cause a statement of charges against each department prepared monthly and present such statement to the department head. Said department head shall immediately examine the same and shall, within ten (10) days, certify to the City Clerk that:
  - (1) The same is a proper charge against the department.

- (2) The same is improper, giving the reason.
  - (3) The charge is assessable, giving the name of the person or persons and the amount to be assessed; whereupon the City Clerk shall cause statements to be issued in accordance with said certificate within ten (10) days.
- (d) Payments may be made from the City treasury after the City Clerk audits and approves each claim as a proper charge against the treasury and endorses his approval on the claim after having determined that the following conditions have been complied with:
- (1) That funds are available therefor pursuant to the budget approved by the Common Council; and
  - (2) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission; and
  - (3) That the item or service has been actually supplied or rendered in conformity with such authorization; and
  - (4) That the claim is just and valid pursuant to law. The Clerk may require the submission of such proof and evidence to support the foregoing as in his discretion is deemed to be necessary; and
  - (5) The Clerk shall file monthly with the governing body a list of the claims approved, showing the date paid, the name of the claimant, the purpose and the amount; and
  - (6) The governing body shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Chapter 442 of the Wisconsin Statutes.

**SEC. 3-1-9 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.**

The City Treasurer may invest any City funds not immediately needed, pursuant to Sections 66.04(2) and 219.05, Wis. Stats.

State Law Reference: Sections 66.04(2) and 219.05, Wis. Stats.

**SEC. 3-1-10 FACSIMILE SIGNATURES.**

In lieu of the personal signatures of the City Clerk, City Treasurer and Mayor, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Common Council, but the use of the facsimile signature shall not relieve such official from any liability to which he is otherwise subject, including the unauthorized use thereof. Any depository shall be fully warranted and protected in making payment on any check bearing such facsimile notwithstanding that the same may have been placed thereon without the authority of the designated persons.

**SEC. 3-1-11 PURCHASES BY CITY ADMINISTRATOR.**

- (a) Subject to the limitations contained in Sec. 62.15, Wis. Stats., the City Administrator is authorized and empowered to make the following purchases on behalf of the City without the prior approval of the Common Council:
  - (1) Office machines, maintenance equipment and services and other specifically budgeted items in a sum not to exceed the budgeted amount or Five Thousand Dollars (\$5,000.00) each, whichever is lesser;
  - (2) Gasoline, road gravel, street patching material, salt, office supplies and other recurring expenses needed in the usual and ordinary operation of the City government and its several departments in a sum not to exceed the budgeted amount for each such purchases;
  - (3) Supplies and miscellaneous equipment in a sum not to exceed the budgeted amount.
- (b) The City Administrator may delegate the authority to make individual purchases not exceeding Fifty Dollars (\$50.00) to duly appointed department heads for operating supplies, provided that the purchase amount is within the department budget.
- (c) Approval of the Common Council shall be required for the following purchases:
  - (1) When the cost of an item exceeds Five Thousand Dollars (\$5,000.00);
  - (2) When the cost of an item exceeds the budgeted amount or will cause the Particular budget account to be overdrawn;
  - (3) When equipment other than that which was budgeted for is required;
  - (4) When a vendor has attempted to exert undue influence.
- (d) All purchases made pursuant to this Section, excepting Subsection (b), shall be initiated by purchase order.
- (e) Payment of invoices for purchases made pursuant to this Section shall be in accordance with Section 3-1-8.

**SEC. 3-1-12 RECEIVING MONEY; RECEIPT FOR SAME.**

- (a) The City Treasurer or his deputies shall not receive any money into the Treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefor in the manner specified by the Common Council.
- (b) Upon the payment of any money (except for taxes as herein provided), the City Treasurer shall make out a receipt in duplicate for the money so received. The Treasurer shall charge the amount thereof to the Treasury and credit the proper account. The payment of the money to any receiving agent of the City or to the City or to the Treasurer shall be safeguarded in such manner as the Common Council shall direct.

State Law Reference: Sec. 66.113, Wis. Stats.

**SEC. 3-1-13 STATEMENT OF REAL PROPERTY STATUS.** (Ord. 91-23) (Ord. 98-39) (Ord. 2003-35)  
(Ord. 2008-18)

- (a) The City Assessor is authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, electric and sewer bills, current water, electric and sewer bills, contemplated improvements, floodplain status, and similar information. Any such information sought shall be provided to the person it on said form. The City Assessor shall collect a fee of Thirty-five Dollars (\$35.00). For RUSH letters (letters needed within 24 hours), a fee of Fifty-five Dollars (\$55.00) shall be charged for furnishing such information on said forms.
- (b) All requests for possible contemplated assessments must be submitted in writing and will be charged a fee of \$20.00.
- (c) If mailing is necessary, the requester shall provide the City Assessor with a self addressed stamped envelope or the appropriate amount of postage and a fee of fifty cents (50¢) for preparing the requested copies for mailing.

**SEC. 3-1-14 ACCOUNTS RECEIVABLE BILLING PROCEDURES.**

Billings by the City of Cedarburg may be paid within thirty (30) days after billing without interest. Thereafter, interest shall be charged at the rate of one and half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the fifteenth (15th) day of November shall have added to the total amount due one and one-half percent (1-1/2%) and said charges shall be entered on the tax roll as a special charge and become a lien upon real estate.

**SEC. 3-1-15 PAYMENT OF TAXES; INTEREST; PENALTY.**

- (a) Overdue or delinquent real estate taxes, personal property taxes and special assessments are subject to an interest charge of one percent (1%) per month or fraction of a month.
- (b) In addition to the interest charge, overdue or delinquent personal property taxes are subject to a penalty of one-half of one percent (0.5%) per month or fraction of a month. The penalty shall apply to any personal property taxes that are overdue or delinquent and shall be calculated from January of the year in which such taxes first become due.
- (c) Immediately upon the sale or transfer of a business, the City Treasurer shall require advanced payment of all personal property taxes based on the previous year's mil rate multiplied by the premise's, property's or business's current year's evaluation.
- (d) No license or permit or renewal of same shall be granted to an entity, business, person or persons who have unpaid municipal taxes, assessments, charges, fees or forfeitures.

Ord. 2006-17)

**SEC. 3-1-16 PUBLIC WORK WITHOUT BIDS.**

Pursuant to Sec. 62.15(1), Wis. Stats., the Common Council, by a vote of three-fourths (3/4) of all the members thereof, may determine that any class of public construction or any part thereof may be done directly by the City without submitting the same for bids.

State Law Reference: Sec. 62.15(1), Wis. Stats.

**SEC. 3-1-17 REPORTING REQUIREMENTS FOR TAX EXEMPT PROPERTY HOLDERS** (Ord. 91-39) (Ord. 92-01) (Ord. 93-33)

- (a) By March 31 of each even numbered year, subject to Subsection (c) hereof, the owner of each parcel of property that is exempt under Wis. Stat. 70.11 (the "Exempt Property") shall file with the City Clerk a form containing the following information:
  - (1) The name and address of the owner of the Exempt Property and, if applicable, the type of organization that owns the Exempt Property.
  - (2) The legal description and parcel number of the Exempt Property as shown on the Assessment Roll.
  - (3) The date of acquisition of the Exempt Property.
  - (4) Description of any improvements on the Exempt Property.
  - (5) A statement indicating whether or not any portion of the Exempt Property was leased to another person during the preceding two years. If the Exempt Property was leased, the statement shall identify the portion of the Exempt Property that was leased, identify the lessee and describe the ways in which the lease payments were used by the owner of the Exempt Property.
  - (6) The owner's estimate of the fair market value of the Exempt Property on January 1 of the even numbered year.
- (b) The information to be provided by the owner of the Exempt Property shall be reported to the City Clerk on a form to be provided to the owner by the City Clerk.
- (c) In the event an owner owns more than one parcel of Exempt Property within the City, such owner shall only be required to file one report listing all parcels of Exempt Property, on a form to be provided to the owner by the City Clerk.
- (d) The owner of Exempt Property shall submit, along with the completed information form, a fee of \$25.00.
- (e) Any owner of Exempt Property who fails to submit the required form with the required fee on or before March 31 of each even numbered year shall be assessed a forfeiture of Ten Dollars for each day after April 1 that the owner fails to file the required form and fee, but not more than \$500.00.
- (f) If the form required pursuant to Sub (b) and/or Sub (c) is not received by March 31 of the even numbered year, the City Clerk shall send the owner of the Exempt Property a notice, by certified mail, stating that the Exempt Property for which the form is required will be appraised at the owner's expense if the completed form is not received by the City Clerk



within thirty days after the notice is sent. If the completed form is not received by the City Clerk within thirty days after the notice is sent, the property shall be appraised either by the City Assessor or by a person hired by the City Assessor to conduct the appraisal.

- (g) This section does not apply to property that is exempt under Wis. Stat. 70.11(1), (2), (13), (13m), (15), (15m), (21) or (30) or property that is exempt under Wis. Stat. 70.11(18) if a payment in lieu of taxes is made for that property. (Ord. 96-09)

**SEC. 3-1-18 REPORT BY OWNERS OF CERTAIN TAX EXEMPT PROPERTY.** (Ord. 92-02)

- (a) By March 15 of each year, each person that owns property that is exempt from taxation under Wis. Stat. 70.11 and that was used in the most recently ended taxable year in a trade or business for which the owner of the property was subject to taxation under Sections 511 to 515 of the Internal Revenue Code, as defined in Wis. Stat. 71.22(4m) shall file with the City Clerk a statement containing the following information:
- (1) The name, address and telephone number of the owner of the property.
  - (2) The name, address and telephone number of a person who can be contacted concerning the use of the property in a trade or business.
  - (3) A general description of the activities engaged in to conduct the trade or business.
  - (4) The location and a description of the property that is used in the trade or business, including, if applicable, the specific portion of a building that is used to conduct the trade or business.
- (b) The information to be provided by the owner of the property shall be reported to the City Clerk on a form to be provided to the owner by the City Clerk, the format and distribution of which shall be governed by Wis. Stat. 70.09(3), as amended.
- (c) If any statement required to be filed under this section is not received by the due date, the City Clerk shall send the owner of the property a notice, by certified mail, stating that the failure to file a statement is subject to the penalties under Subsection (d).
- (d) A person who fails to file a statement within thirty days after the notification under Subsection (c) shall forfeit \$10 for each succeeding day on which the statement is not received by the City Clerk, but not more than \$500.

## CHAPTER 2

### Special Assessments

- 3-2-1 Common Council May Levy Special Assessments
- 3-2-2 Resolution and Report Required
- 3-2-3 Costs That May Be Paid By Special Assessment
- 3-2-4 Exemptions; Deductions
- 3-2-5 Notice of Proposed or Approved Project
- 3-2-6 Council Actions After Hearing
- 3-2-7 Combined Assessments
- 3-2-8 Council's Power to Amend, Cancel or Confirm Special Assessment
- 3-2-9 Where Cost of Improvement is Less Than Assessment
- 3-2-10 Appeals; Appealed Assessments Payable When Due
- 3-2-11 Special Assessment a Lien on Property
- 3-2-12 Special Charges Permissible
- 3-2-13 Miscellaneous Provisions
- 3-2-14 Assessments for Public Improvements

#### **SEC 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENTS.**

- (a) The City of Cedarburg by resolution of its Common Council may levy and collect special assessments upon property in a limited and determinable area under its police powers for any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement. In addition to other methods approved by law, special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.
- (b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom and, for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Common Council.
- (c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefor. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.

State Law Reference: Sec. 66.62, Wis. Stats.

#### **SEC. 3-2-2 RESOLUTION AND REPORT REQUIRED.**

- (a) Public improvements carried out pursuant to Sec. 66.60, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the City Clerk, which resolution shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of installments in which special assessments may be paid or that the number of installments will be determined at a hearing thereon, and direct the Director of Engineering and Public Works to make a report thereon. After adoption of such preliminary resolution, copies thereof shall be forwarded by the City Clerk to the Director of Engineering and Public Works and, when applicable, the Light and Water Utility Manager. The City Clerk shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Director of Engineering and Public Works. Upon receipt of copy of such preliminary resolution, the Director of Engineering and Public Works shall prepare a report thereon.
- (b) The report required by Subsection (a) shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) The provisions of Sec. 66.60 of the Wisconsin Statutes, as amended, shall apply to special assessments levied under this Chapter except that, when the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Sec. 66.60(3) of the Wisconsin Statutes shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.
  - (3) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
  - (4) A copy of the report when completed shall be filed with the City Clerk for public inspection.
- (c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.60(3), Wis. Stats., and Subsections (a) and (b) above still contain a statement of the final cost of the work service or improvement in lieu of an estimate of the cost.

**SEC. 3-2-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.**

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the City and the cost of any architectural,

engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

**SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.**

- (a) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and allocated in conformance with the City's special assessment policy.
- (b) In the event of special assessments for the base cost of sanitary sewer, water main or storm sewer (hereinafter "municipal utilities") laid in one street abutting a corner lot, said lot shall be entitled to such deduction or exemption as the Common Council determines to be reasonable and just under the policies adopted by the Policy and Personnel Committee and the Common Council and under the circumstances of each case if such special assessments have been or are being levied for municipal utilities in another street abutting said lot. Under no circumstances shall a special assessment be levied upon a parcel of land if that land is not specially benefited by that municipal utility. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.
- (c) With respect to municipal utilities, the assessment for a corner lot shall be based upon the average front footage of the two (2) affected sides of the lot.

**SEC. 3-2-5 NOTICE OF PROPOSED OR APPROVED PROJECT.**

- (a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk required in Section 3-2-5(b)(5) of this Chapter, the City Clerk shall prepare a Notice of Hearing, which notice shall comply with Sec. 66.60(7), Wis. Stats., and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.
- (b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all

the owners of property affected by such special assessment. In such cases, the procedure shall be the same as hereinbefore provided excepting for the noticing and holding of public hearing thereon.

**SEC. 3-2-6 COUNCIL ACTIONS AFTER HEARING.**

- (a) After the hearing, the Common Council may:
  - (1) Approve, disapprove, modify or re-refer the report to the Director of Engineering and Public Works or other designated City official with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
  - (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.
- (b) If an assessment is made against any property and an award of compensation or damage be made in favor of the property, the Common Council shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- (c)
  - (1) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
  - (2) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The City Clerk shall publish the final resolution as required in Section 3-2-5 of this Chapter.
- (e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Sec. 66.60(12), Wis. Stats., or any other applicable provision of law.

**SEC. 3-2-7 COMBINED ASSESSMENTS.**

If more than a single improvement is undertaken, the Common Council may combine the assessments as a single assessment on each property affected except that the property owner may object to any one or more of said improvements.

**SEC. 3-2-8 COUNCIL'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.**

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found

to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5 to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming be given by the City Clerk as provided in Section 3-2-6 of this Chapter.

**SEC. 3-2-9 WHERE COST OF IMPROVEMENT IS LESS THAN ASSESSMENT.**

If the cost of the work or improvement is less than the assessment levied, the Common Council without notice or hearing shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the City shall refund the property owner such overpayment.

**SEC. 3-2-10 APPEALS; APPEALED ASSESSMENTS PAYABLE WHEN DUE.**

- (a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Sec. 66.60(12) of Wis. Stats., as amended, within forty (40) days of the date of the final determination of the Common Council.
- (b) Pursuant to Sec. 66.60(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

**SEC. 3-2-11 SPECIAL ASSESSMENT A LIEN ON PROPERTY.**

Pursuant to Subsection (13) of Sec. 66.60, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

**SEC. 3-2-12 SPECIAL CHARGES PERMISSIBLE.**

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution shall set forth the property location, the current service rendered by the City and the special charge therefore or cost thereof. Such solution for special charges may include snow and ice removal, weed elimination, street sprinkling oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer and water service and tree care or removal and removal of tree roots in sanitary and storm sewer laterals or building services. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk, curb or gutter repair, twenty

- (20) days' notice published in the official City newspaper, or by posting such notice in three (3) places in the City and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed. (Ord. 96-04)
- (b) Special charges for current services shall not be payable by installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Sec. 66.60(16) of the Wisconsin Statutes, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by Sec. 66.60(16) of the Wisconsin Statutes, as amended.
- (c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

State Law Reference: Sec. 66.60(16), Wis. Stats.

### **SEC. 3-2-13 MISCELLANEOUS PROVISIONS.**

- (a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.
- (c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property affected either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

### **SEC. 3-2-14 ASSESSMENTS FOR PUBLIC IMPROVEMENTS.**

Assessments for public improvements shall be pursuant to the City of Cedarburg Special Assessments Policy, which is adopted by reference and incorporated herein, a copy of which is on file with the Director of Engineering and Public Works.

## CHAPTER 3

### Public Records

- 3-3-1 Definitions
- 3-3-2 Duty to Maintain Records
- 3-3-3 Legal Custodian(s)
- 3-3-4 Public Access to Records
- 3-3-5 Access Procedures
- 3-3-6 Limitations on Right to Access
- 3-3-7 Destruction of Records
- 3-3-8 Preservation Through Microfilm

#### SEC. 3-3-1 DEFINITIONS.

- (a) "Authority" means any of the following City entities having custody of a City record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- (b) "Custodian" means that officer, department head, division head, or employee of the City designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
- (c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library. [Wis. Stat. 19.32(2)] (Ord. 94-32)
- (d) "Direct Cost" means the actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) "Actual Cost" means the total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

#### SEC. 3-3-2 DUTY TO MAINTAIN RECORDS.



- (a) Except as provided under Section 3-3-7, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

**SEC. 3-3-3 LEGAL CUSTODIAN(S).**

- (a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the City Clerk to act as the legal custodian.
- (b) Unless provided in this Subsection and Subsection (c), the City Clerk or the Clerk's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council. The following offices or authorities shall have as a legal custodian of records the individual so named.

<u>Authority</u>	<u>Designated Legal Custodian</u>
City Assessor's Office	City Assessor
General City Records (including Council Records and financial records)	City Clerk
Fire Department	Fire Chief
Police Department	Chief of Police
City Attorney's Office	City Attorney
Public Works	Director of Engineering and Public Works
Police and Fire Commission	Chairman of the Police

and Fire Commission

Building Inspections; Zoning

Building Inspector

Public Library

Library Director

- (c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk.

State Law Reference: Wis. Stat. 19.33 (Ord. 94-32)

### **SEC. 3-3-4 PUBLIC ACCESS TO RECORDS.**

- (a) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (f) A requester shall be charged a fee for each page to defray the cost of copying records as follows:
  - (1) Each single-sided black and white page -- Twenty-five Cents (25¢). Each single-sided color copy page – Fifty Cents (50¢). (Ord. 2015-25)
  - (2) Copy of tax bill and each certification -- Fifty Cents (50¢).
  - (3) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
  - (4) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, CDs and audio- and videotapes, shall be charged.
  - (5) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - (6) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.
  - (7) The legal custodian shall estimate the cost of all applicable fees and shall require a

cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).

- (8) Elected and appointed officials of the City shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (9) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Common Council.

### **SEC. 3-3-5 ACCESS PROCEDURES.**

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1),

Wis. Stats., or upon application to the attorney general or a district attorney.

**SEC. 3-3-6 LIMITATIONS ON RIGHT TO ACCESS.**

- (a) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
  - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
  - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
  - (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
  - (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
- (b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
  - (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
  - (2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
  - (3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
  - (4) Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
  - (5) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.

- (6) Pursuant to Sec. 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  - (7) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.
  - (8) Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

**SEC. 3-3-7 DESTRUCTION OF RECORDS.** (Ord. 94-32)

- (a) No requested records may be destroyed until after the request is granted or 60 days after the request is denied. If an action is commenced under Section 19.37 Wis. Stats., the request record may not be destroyed until after a court order is issued and all appeals have been completed. See 19.35(5), Wis. Stats.
- (b) No record subject to pending litigation shall be destroyed until the litigation is resolved.
- (c) City officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, but not less than creation plus seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:
  - (1) Bank statements, deposit books, slips and stubs.
  - (2) Bonds and coupons after maturity.
  - (3) Canceled checks, duplicates and check stubs.
  - (4) License and permit applications, stubs and duplicates.
  - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
  - (6) Receipt forms.

- (7) Special assessment records.
- (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (d) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.
  - (1) Contracts and papers relating thereto.
  - (2) Excavation permits.
  - (3) Inspection records.
- (e) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than creation plus seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.
  - (1) Contracts and papers relating thereto.
  - (2) Correspondence and communications.
  - (3) Financial reports other than annual financial reports.
  - (4) Justice dockets.
  - (5) Oaths of office.
  - (6) Reports of boards, commissions, committees and officials duplicated in the Common Council proceedings.
  - (7) Election notices and proofs of publication.
  - (8) Canceled voter registration cards.
  - (9) Official bonds.
  - (10) Police records other than investigative records.
  - (11) Resolutions and petitions, providing the text of the same appears in the official City minutes.
- (f) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to lesser time schedules as made and provided in Sec. 7.23, Wis. Stats.
- (g) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall be given the State Historical Society prior to the destruction of any record as provided by Sec. 19.21(4)(a), Wis. Stats.
- (h) Any tape recordings of a governmental meeting of the City may be destroyed, erased or reused no sooner than ninety (90) days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.
- (i) This ordinance and the retention periods of less than seven (7) years have been reviewed and

approved by the Public Records and Forms Board.

**SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.**

Any City officer or the director of any department or division of City government may, subject to the approval of the City Clerk, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3-3-4 through 3-3-6 of this Chapter.

## CHAPTER 4

### Disposal of Lost, Abandoned and Surplus Property

- 3-4-1 Disposal of Surplus City Property
- 3-4-2 Lost and Abandoned Property

#### **SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY.** (Ord. No. 2007-03)

(a) **Definitions.**

- (1) "Surplus City Property" is that property which is owned by the City of Cedarburg and which has no further usefulness to the City. An item of property shall be considered to have no further usefulness when:
  - a. The item or its function has been totally replaced by other City property and no probable future function exists for it; or
  - b. The City no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or
  - c. The item is no longer able to reliably or economically perform the work required of it.
- (2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus City property shall not include property which is obtained by the City as a result of abandonment or loss by the property's original owner. Surplus City property shall not include items of property which are traded in for newer items. Surplus City property shall not include library materials used by the public library for lending purposes.

(b) **Determination of Surplus City Property.**

- (1) Whenever an item of City property is determined to be surplus City property on the basis that the City no longer performs the service for which the item was purchased, the disposal procedures of Subsection (c) shall be followed.
- (2) The appropriate department head shall determine whether or not the item is surplus City property.

(c) **Disposition of Surplus City Property.**

- (1) Whenever the Common Council determines that an item of property is surplus City property, it shall dispose of such property as it determines. The method of disposal chosen shall be one which is most appropriate, given: the condition, location and physical characteristics of the item(s); the amount of time, effort, administration and expense required for the method relative to the potential value received; and the public benefits and/or liabilities associated with the method.



- (2) Whenever the fair market value of an item is less than Five Hundred Dollars (\$500.00) and the Common Council has determined, pursuant to the previous Section, that it is surplus City property, the department head shall use one of the approved methods listed below to dispose of the property. Disposing of items or groups of items with an estimated value of \$500 or more using methods other than those listed below shall require the approval of the Common Council.
- a. An auction conducted by the City or other governmental agency
  - b. Internet-based auctions or selling tools
  - c. Sale to the general public via advertised, sealed bidding
  - d. Trade-in on new supplies or equipment
  - e. Transfer to another City department
  - f. Donation to approved non-profit organizations to be used for a public purpose.
  - g. Sale, trade, transfer or donation to an outside, publicly funded organization also to be used for a public purpose
  - h. Recycling and/or sale as scrap
  - i. Discarding as trash
  - j. Other methods which may be approved on a case-by-case basis by the Common Council
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Common Council. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the City and the amount of the bid shall be forfeited to the City. In the event no bids are received, the item shall be disposed of as directed by the Common Council. In the event of an Internet auction, a third party shall assist in the sale and shipment of the item(s) provided that a list shall be preserved of the articles sold, the price for each item sold and the name and address to whom the property is sold. Three days' notice shall be given to the public in the official newspaper of the City that unclaimed items will be placed with an Internet auction site. It shall not be necessary to publish a list of the articles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. In the case of Internet auction, the auction company shall pick up the property and relocate the property to their facility from which the property will be shipped upon sale. Cost of shipping shall be netted from auction proceeds. The City shall also endeavor to include a notice on its official City Website, although failure to do so shall not void any sale.
- (4) No public auction or awarding of bids for surplus property shall occur under this Chapter unless a description of the item to be sold and an advance notice of the time and place for such auction or bid submission are first published.

- (d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final or in the case of Internet auctions, by the auction company.
- (e) **Authority to Dispose of Property.**
  - (1) Except for library materials used by the public library for lending purposes, only the Common Council may dispose of City property which is not surplus City property.
  - (2) Whenever this Section provides for an auction or other disposition of any property, the Common Council shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

### **SEC. 3-4-2 LOST AND ABANDONED PROPERTY.**

- (a) **City Custody of Lost or Abandoned Property.**
  - (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
  - (2) Lost and abandoned property will be examined by the Chief of Police or his designee for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
  - (3) No City employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
  - (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
  - (5) No City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the City Clerk.
- (b) **Disposal Procedures.**
  - (1) Classes of Property. All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the City shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.
    - a. Vehicles: Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 4, of this Code of Ordinances.
    - b. Intoxicating Liquor and Fermented Malt Beverages: Intoxicating liquor and

- fermented malt beverages shall be destroyed.
- c. Firearms, Ammunition and Explosives: Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury. any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriff's Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
  - d. Other Property with a Fair Market Value of One Hundred Dollars (\$100.00) or Less: An item of Property with a fair market value of One Hundred Dollars (\$100.00) or less shall be destroyed or sold at public auction, Internet auction, or sealed bid. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.
  - e. Other Property with a Fair Market Value of Over One Hundred Dollars (\$100.00): An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction, Internet auction, or by sealed bid.
  - f. Illegal property: Property which cannot be legally possessed shall be destroyed
- (2) Disposal by Auction, Internet Auction or Sealed Bid.
- a. Whenever any property under this Section is sold by public auction or sale or by sealed bid, such auction or the awarding of bids shall be preceded by a Class 1 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official City newspaper three weeks in advance of sale. For property that is sold by Internet auction, three days' notice shall be given to the public in the official newspaper of the City that unclaimed items will be placed with an Internet auction site. It shall not be necessary to publish a list of the articles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. The City shall also endeavor to include a copy of the notice on its official City Website, although failure to do so shall not void any sale.
  - b. The property auctioned or sold by sealed bid shall be sold in "as-is" condition to the highest bidder. No sale or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal proceeding. In the case of public auction or sale, the department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed

within that time, the property shall revert to the City and the amount of the bid be forfeited to the City.

- c. Any City official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by auction, Internet auction, or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.
- (3) Lost Property. Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he may claim ownership of said property. The Chief of Police shall determine what Disposal of Lost, Abandoned and Surplus Property portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any City employee finding property in the regular course of his employment.
- (4) Payment to City Treasury. All sums received from the sale of property under this Section shall be paid to the City Treasury with proceeds going into the General Fund with the exception of motorized equipment, where proceeds will go back to that department to be used as a down payment on the replacement vehicle or equipment. If the vehicle or piece of equipment is not being replaced, the proceeds shall go into the General Fund.

State Law Reference: Sec. 66.0139 and Sec. 177.22, Wis. Stats.

## CHAPTER 5

### Room Tax (Ord. 92-45) (Ord. 94-39)

3-5-1	Imposition of Room Tax
3-5-2	Collection of Tax
3-5-3	Liability for Unpaid Tax
3-5-4	Interest on Unpaid Taxes
3-5-5	Delinquent Tax Returns
3-5-6	Administration of Tax Collection
3-5-7	Penalty Assessment
3-5-8	Fraudulent Tax Returns
3-5-9	Records to be Maintained
3-5-10	Confidentiality of Records
3-5-11	Definitions
3-5-12	Penalty

#### **SEC. 3-5-1 IMPOSITION OF ROOM TAX.** (Ord. 94-39)

- (a) Pursuant to Section 66.75, Wisconsin Statutes, a tax is imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of five percent (5%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Section 77.52(2)(a)1, Wisconsin Statutes.
- (b) **Registration Required.** Every person furnishing rooms or lodging under par. (a) above, shall register each business entity with the Treasurer. The registration shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers.
- (c) **Issuance of Certificate of Registration.** After compliance with par. (b) above by the applicant, the Treasurer shall grant and issue to each applicant a separate certificate for each business entity within the City. Such certificate is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be available for inspection at the place for which issued.

#### **SEC. 3-5-2 COLLECTION OF TAX.** (Ord. 94-39)

The room tax imposed by Section 1 for each calendar quarter is due and payable and must be received in the office of the City Treasurer at the City Hall on or before the last business day of the month next succeeding the calendar quarter for which it is imposed. The business entity collecting

the tax shall be entitled to retain two percent of the amount collected as reimbursement for its costs and efforts in the collection of the tax and the report requirements of this chapter. The remainder shall be considered the "net" as used in the Chapter.

- (a) **Quarterly Room Tax Returns.** A return shall be filed with the treasurer on or before the same date on which such tax is due and payable. Such return shall be on a form provided by the city and shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, illustrating and indicating thereon any exemption from an imposed room tax, billed to the State and/or its departments or agencies, the amount of taxes imposed for such period, and such other information as the treasurer deems necessary, provided it is directly related to the tax.
- (b) **Annual Room Tax Return.** Every person required to file such quarterly returns shall also file an annual calendar year return on a form provided by the City which shall be due and filed as part of the quarterly return for the fourth quarter of each calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the treasurer requires, provided it is directly related to the tax. All annual returns shall be signed by the persons required to file a return, or his or her duly authorized agent. The Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

**SEC. 3-5-3 LIABILITY FOR UNPAID TAX.**

The room tax imposed hereunder shall be a continuing liability upon the business entity or person upon whom it is imposed until paid in full. Business successors shall be liable for any preceding calendar quarter for which a return has not been filed and payment not received.

**SEC. 3-5-4 INTEREST ON UNPAID TAXES.**

All unpaid taxes under this chapter shall bear interest at the rate of twelve percent per annum from the due date of the return until the first day of the month following the month in which the tax was paid.

**SEC. 3-5-5 DELINQUENT TAX RETURNS.**

Tax returns required hereunder and not timely filed shall be deemed delinquent and shall be subject to a ten-dollar (\$10.00) late filing fee.

**SEC. 3-5-6 ADMINISTRATION OF TAX COLLECTION.** (Ord. 94-39)

- (a) The City Treasurer shall be responsible for the administration and collection of the room tax. The treasurer may, by field audit, determine the tax required to be paid to the City or the

refund due to any person under this section. The determination shall be made upon the basis of the facts contained in the return being audited and upon any other information available to the treasurer. The treasurer is authorized to examine and inspect the books, records memoranda and property of any person which are directly related to the tax or which have a direct bearing upon the gross receipts upon which the tax due, including state sales tax records, is determined in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the treasurer from making a determination of tax at any time.

- (b) Commencing on 1/1/95 and thereafter when forty (40) hotel/motel rooms are available for accommodations to the public in the City of Cedarburg, the net room tax collections shall be allocated as follows:
- (1) The Cedarburg Chamber of Commerce shall be the organization appointed by the City of Cedarburg to be its commission on tourism promotion and development pursuant to Wis. Stats. 66.75.
  - (2) The Chamber of Commerce shall receive 95% of the net tax collected in quarterly payments as received by the City of Cedarburg. Five percent will be retained by the City of Cedarburg to cover the cost of administration.
  - (3) Of the 95% received, the Chamber of Commerce shall place 25% in a separate account to be expended for capital improvements at the Chamber of Commerce's discretion. The Chamber will keep the City advised and informed of the capital improvements they plan to implement with the room tax proceeds prior to implementation. Capital improvements shall be defined for the purpose of this article as improvements that enhance the appearance of the City of Cedarburg and promote tourism and development. Examples of such capital improvements are: signage, lighting, sidewalk improvements, banners, landscaping, etc.
  - (4) The Chamber of Commerce will submit an annual report on or before April 1 following December 31 of the previous year, for room tax monies received and disbursed in the previous year. Upon request of the Common Council, the Chamber of Commerce shall permit and allow inspection of its records pertaining to the use of room tax funds.

### **SEC. 3-5-7 PENALTY ASSESSMENT.**

If any person fails to timely file a return, as required by this Chapter, the treasurer shall make an estimate of the amount of the gross receipts upon which the tax is determined. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the treasurer's possession or may come into his or her possession or such other information as may have a bearing upon the determination of gross receipts. On the basis of this estimate the treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten percent thereof. Such determination may be made for each quarterly period for which no return is filed. Such penalty shall be due upon written notice to the business entity or person owing the tax and shall not be in lieu of the tax due hereunder.

**SEC. 3-5-8 FRAUDULENT TAX RETURNS.**

If a person files false or fraudulent return with the intent in either case to defect or evade the tax imposed by this chapter, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

**SEC. 3-5-9 RECORDS TO BE MAINTAINED.**

Every person liable for the tax imposed by this Chapter shall keep or cause to be kept such records, receipts, invoices and other pertinent papers for seven (7) years in such form so as to enable the treasurer to determine the tax due hereunder.

**SEC. 3-5-10 CONFIDENTIALITY.**

- (a) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the City Treasurer are deemed to be confidential, except the City Treasurer may divulge their contents to the following and no others:
  - (1) The person who filed the return.
  - (2) Such other public officials when deemed necessary and after notification of the licensee.
- (b) No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return, or permit, any return or copy thereof to be seen or examined by any person, except as provided herein.

**SEC. 3-5-11 DEFINITIONS.**

For the purpose of this chapter, the following terms shall have the meaning given herein:

- (a) "Hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, summer camps, apartment hotels, resort lodges, campgrounds, cabins and any other building or group of buildings in which the accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanatoriums, or nursing homes, roominghouses, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.
- (b) "Gross receipts" has the meaning as defined in Section 77.51(11)(a), (b) and (c), Wisconsin Statutes, insofar as applicable. Any federal and state tax exempt transactions shall not be included in the definition of gross receipts.
- (c) "Person" shall include corporations, partnerships or other business entities.



- (d) "Transient" means any individual residing for a continuous period of less than one month in a motel, hotel, or other furnished accommodations available to the public.

**SEC. 3-5-12 PENALTY.**

Any violation of, or noncompliance with, any of the provisions of this Chapter for which a penalty has not been prescribed herein shall subject the violator to a forfeiture of not less than fifty (\$50.00) dollars nor more than two hundred fifty dollars (\$250.00), together with the costs of prosecution and in default of payment thereof to imprisonment in the county jail until such forfeiture has been paid but not to exceed fifteen days. Each day of violation or noncompliance shall constitute a separate offense."

**CHAPTER 6**  
**Impact Fees**

3-6-1	Purpose
3-6-2	Definitions
3-6-3	Library Facility
3-6-4	Police Department Facility
3-6-5	Water Supply Facilities
3-6-6	Park Facilities
3-6-7	Wastewater Treatment Plan Reserve Capacity Impact
3-6-8	Fee Reduction
3-6-9	Administration and Review
3-6-10	Appeal

**SECTION 3-6-1 PURPOSE.** (Ord. 2012-03)

The purpose of this section is to promote the public health, safety and general welfare of the community and to facilitate the adequate provision for certain library, park, police and water facilities, the reserve capacity at the Wastewater Treatment Plant, and the biosolids facility by imposing impact fees upon developers to pay for the capital costs that are necessary to accommodate land development.

**SECTION 3-6-2 DEFINITIONS.**

- (a) “Impact Fees” means cash contributions, contributions of land or interest in land or any other items of value that are imposed on a developer.
- (b) “Developer” means a person who constructs or creates a land development.
- (c) “Land Development” means the construction or modification of improvements to real property that creates additional residential dwelling units within the City or that results in non-residential uses that create a need for new, expanded or improved public facilities within the City.
- (d) “City” means the City of Cedarburg, Wisconsin.
- (e) “Capital Costs” means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the City can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. “Capital Costs” does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities; or the costs of equipment to construct, expand or improve public facilities.
- (f) “Public facilities” means all of the following:

1. Highways as defined in s. 340.01 (22), and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing, and distributing water, parks, playgrounds, and land for athletic fields, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. "Public facilities" does not include facilities owned by a school district.
  2. Notwithstanding subd. 1., with regard to impact fees that were first imposed before June 14, 2006, "public facilities" includes other recreational facilities that were substantially completed by June 14, 2006. This subdivision does not apply on or after January 1, 2018.
- (g) Residential Equivalent Connection (REC) means a unit of measure for water related impact fees equivalent to the average amount of water capacity needed to supply one single-family residential dwelling unit. For the purpose of the water supply impact fees established under this Ordinance, a REC shall be equal to 53,544 gallons annually.

**SECTION 3-6-3 LIBRARY FACILITY** (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26) (Ord 2015-27)(Ord. 2016-19)(Ord. 2017-32)(Ord. 2018-28)

Any developer creating or constructing additional residential units within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the Library expansion needs of land development except as provided in subsection (8) below.

- (a) The amount of the fee shall be \$877.52 per single-family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be \$582.84 per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development. Multi-family includes Community Based Residential Treatment facilities.
- (c) The fee shall be imposed as a condition of the issuance of the building permit.
- (d) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the library facilities within the City.
- (e) Such fees collected after December 10, 2008 shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SECTION 3-6-4 POLICE DEPARTMENT FACILITY** (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26) (Ord 2015-27)(Ord. 2016-19)(2017-32)(Ord. 2018-28)

Any developer creating or constructing additional residential dwelling units or any commercial, industrial or institutional land development within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the Police Department Facility expansion needs of land development except as provided in subsection (8) below.

- (a) The amount of the fee shall be \$1,003.88 per single-family residential dwelling unit, and \$666.76 per multifamily residential dwelling unit and CBRF at \$2.55 per \$1,000 valuation for commercial, industrial or institutional development.
- (b) The fee shall be imposed as a condition of issuance of the building permit.
- (c) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the police facilities within the City.
- (d) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SEC 3-6-5 WATER SUPPLY FACILITIES** (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26)(Ord. 2015-27)(Ord. 2016-19)(Ord. 2017-32)(Ord. 2018-28)

Any developer creating or constructing additional residential dwelling units or commercial, industrial, or institutional land development within the City or any owner of property in the City that has a change in use that results in the use of additional water capacity shall pay a fee to the City to provide for the capital costs necessary to accommodate water supply expansion needs of land development except as provided in subsection (8) below.

- (a) The water supply facilities impact fee shall be \$1,973.29 per single-family residential dwelling unit and \$1,479.98 per residential unit of a multi-family residential dwelling unit.
- (b) For all residential users of the water system, the following table shall be used to determine the number of residential equivalent connections (REC) per dwelling unit or building.

<b>Residential Users</b>	<b>REC</b>
Single-family home	1.00
Multiple-family	0.75/unit

<b>Standard Industrial Classification Code</b>	<b><u>Description</u></b>	<b>Gallons per Employee Hour</b>
0742	Veterinary services for animal specialties	20.0
0752	Animal specialty services	16.0
0782	Lawn and garden services	10.0
1446	Industrial sand	5.0
1521	General contractors – Residential	2.3
1541	General contractors – Industrial buildings and warehouses	2.3

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1611	General contractors-Public Works	2.3
1711	Plumbing, heating and air conditioning	2.3
1731	Electrical work	2.3
1761	Roofing and sheet metal work	2.3
1799	Special trade contractors (not elsewhere classified)	2.3
2013	Sausage and other prepared meats	110.0
2065	Candy and other confectionery products	50.0
2087	Flavoring extracts and syrups (not elsewhere classified)	75.0
2394	Canvas and related products	2.3
2431	Millwork	5.0
2434	Wood kitchen cabinets	5.0
2522	Metal office furniture	2.3
2721	Periodicals: Publishing and printing	10.0
2731	Books: Publishing and printing	10.0
2751	Commercial printing, letterpress and screen	10.0
2752	Commercial printing, lithographic	10.0
2789	Book binding and related work	10.0
2795	Lithographic plate making and related services	25.0
2819	Industrial inorganic chemicals (not elsewhere classified)	10.0
2834	Pharmaceutical preparation	10.0
2841	Soap and other detergents	15.0
2893	Manufacturing of printing ink	30.0
2899	Chemicals and chemical preparations (not elsewhere classified)	10.0
3079	Miscellaneous plastic products	85.0
3111	Leather tanning and finishing	345.0
3272	Concrete products, except block and brick	25.0
3442	Metal doors, sash, frames, molding and trim	2.3
3444	Sheet metal work	40.0
3451	Screw machine products	10.0
3462	Iron and steel forging	5.0
3469	Metal stampings (not elsewhere classified)	5.0
3471	Electroplating, plating, polishing, anodizing, etc.	50.0
3479	Coating, engraving and allied services (not elsewhere classified)	100.0
3495	Wire springs	2.3
3498	Fabricated pipe and fittings	2.3
3499	Fabricated metal products (not elsewhere classified)	25.0
3531	Construction machinery and equipment	5.0
3544	Spec. dies and tools, die sets, jigs and fixtures, molds	10.0
3562	Ball and roller bearings	5.0
3565	Industrial patterns	5.0
3569	General industrial machinery & equipment (not elsewhere classified)	4.0
3576	Scales and balances, except laboratory	2.3
3599	Machinery, except electrical (not elsewhere classified)	10.0
3613	Switchgear and switchboard apparatus	5.0
3632	Household refrigerators and home and farm freezers	2.3
3694	Electrical equipment for internal combustion engines	2.3
2714	Motor vehicle parts and accessories	75.0
3999	Manufacturing industries (not elsewhere classified)	2.3

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4141	Local passenger transportation charter service	2.3
4151	School busses	2.3
4212	Local trucking without storage	10.0
4213	Trucking, except local	2.3
4225	General warehousing and storage	2.3
4311	U.S. Postal Service	2.3
4722	Travel agency	2.3
4811	Telephone communication	2.3
4832	Radio broadcasting	2.3
5042	Toys and hobby goods and supplies	2.3
5063	Electrical apparatus and equipment	2.3
5054	Electrical appliances	2.3
5072	Hardware – Wholesale distribution	2.3
5082	Construction and mining machinery and equipment	2.3
5084	Industrial machinery and equipment	2.3
5142	Frozen foods	10.0
5149	Wholesale groceries and related products (not elsewhere classified)	10.0
5199	Wholesale nondurable goods (not elsewhere classified)	10.0
5211	Lumber and other building materials	2.3
5231	Paint, glass, wallpaper	2.3
5251	Hardware – Retail sales	2.3
5261	Retail nurseries, lawn and garden supply stores	10.0
5271	Mobile home dealers	2.3
5311	Department stores	2.3
5331	Variety stores	2.3
5411	Grocery stores with meat and produce departments	16.0
5412	Grocery stores without meat and produce departments	6.0
5441	Candy, nut and confectionery stores	10.0
5462	Retail bakeries – Baking and selling	10.0
5499	Miscellaneous food stores	2.3
5511	Motor vehicle dealers	5.0
5531	Auto and home supply stores	2.3
5541	Gasoline service stations	15.0
5551	Boat dealers	5.0
5611	Clothing stores	2.3
5651	Shoe stores	2.3
5681	Furriers and fur shops	5.0
5711	Furniture, floor coverings, appliances	2.3
5812	Eating places (restaurants)	20.0
5813	Drinking places (taverns)	45.0
5912	Drugstores and proprietary stores	2.3
5921	Liquor stores	2.3
5931	Used merchandise stores	2.3
5941	Sporting goods stores and bicycle shops	2.3
5942-9	Miscellaneous stores	2.3
5992	Florists	10.0
5999	All other retail stores	2.3
6022-9	Banks	2.3

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6122-63	Savings and loans	2.3
6311	Insurance companies	2.3
6411	Insurance agents	2.3
6512	Operators of nonresidential buildings	2.3
6515	Operators of residential mobile home sites	2.3
6531	Real estate agents and managers	2.3
6553	Cemetery sub-dividers and developers	2.3
6722	Management investment offices	2.3
7011	Hotels, motels, tourist courts	0.5 REC p/unit
7211	Power laundries, family and commercial	105.0
7212	Cleaning and laundry pickup stations	2.3
7215	Fac. Coin-op laundries and dry cleaning	910.0
7221	Photographic studios	2.3
7231	Beauty shops	16.0
7241	Barber shops	10.0
7261	Funeral service and crematories	15.0
7299	Miscellaneous services (not elsewhere classified)	2.3
7311	Advertising agencies, employment services	2.3
7332	Blueprinting and photocopying services	2.3
7351	Employment agencies	2.3
7391	Research and development laboratories	10.0
7395	Photofinishing labs	10.0
7512	Passenger car rental and leasing, w/o drivers	10.0
7531	Top and body repair shop	5.0
7534	Tire re-treading and repair shops	20.0
7538	General automotive repair shops	5.0
7542	Car washes	115.0
7622	Radio and television repair	2.3
7699	Repair shops and related services (not elsewhere classified)	20.0
7832	Motion picture theaters, not drive-ins	20.0
7911	Dance halls, studios and schools	20.0
7922	Theatrical producers	20.0
7933	Bowling alleys	50.0
7992	Public golf courses	45.0
7997	Membership sports and recreation clubs	75.0
7999	Roller rinks, gymnasiums, museums	20.0
8011	Offices of physicians	10.0
8021	Offices of dentists	10.0
8031	Offices of osteopaths	10.0
8041	Offices of chiropractors	10.0
8051	Skilled nursing care facilities	20.0
8091	Health and allied services (not elsewhere classified)	10.0
8111	Attorneys	2.3
8211	Elementary and secondary schools	20.0
8221	Colleges, universities and professional schools	25.0
8231	Libraries and information centers	20.0
8249	Vocational schools (not elsewhere classified)	20.0
8421	Arboreta, botanical and zoological gardens	45.0

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8621	Professional membership organizations	2.3
8641	Civic, social and fraternal associations	15.0
8661	Religious organizations (hours occupied only)	20.0
8699	Membership organizations (not elsewhere classified)	2.3
38911	Engineering, architectural and surveying services	2.3
8931	Accountants	2.3
9199	General government (not elsewhere classified)	2.3
9221	Police protection	2.3
9224	Fire protection	2.3
9451	Administration of veteran's affairs	2.3
9999	All offices (not elsewhere classified)	2.3

SIC Code Source: Office of Management and Budget, Executive Office of the President

- (d) The fee shall be imposed as a condition of the issuance of the building permit.
- (e) Such fees collected by the Water Utility shall be placed in a special fund which shall be separate from the general fund of the Water Utility, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of water supply facilities.
- (f) Such fees collected after March 13, 2013 shall be expended by the Water Utility for the aforesaid purpose within twenty (20) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee. Such fees collected before March 13, 2013 must be spent by March 13, 2016.

**SECTION 3-6-6 PARK FACILITIES** (Ord. 2012-28)(Ord. 2013-33)(Ord. 2014-26)(Ord. 2015-27)(Ord. 2016-19)  
(Ord. 2017-32)(Ord. 2018-28)

Any developer creating or constructing additional residential units within the City shall pay a fee to the city to provide for the capital costs necessary to accommodate the Park facility expansion needs of land development except as provided in subsection (8) below.

- (a) The amount of the fee shall be \$1,198.42 per single-family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be \$795.96 per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development. Multi-family includes Community Based Residential Treatment facilities.
- (c) The fee shall be imposed as a condition of the issuance of the building permit.
- (d) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the park facilities within the City.
- (e) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected



**SEC. 3-6-7 WASTEWATER TREATMENT PLANT RESERVE CAPACITY IMPACT FEE**

(Ord. 2012-28) (Ord. 2013-33)(2014-26)(Ord. 2015-27)(Ord. 2016-19)(Ord. 2017-32)(Ord. 2018-28)

Any developer creating or constructing additional residential dwelling units, or any commercial, industrial or institutional land development within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the reserve capacity at the Wastewater Treatment Plant and for the capital costs necessary for expansion of the proposed biosolids management facility except as provided in subsection (8) below.

- (a) The amount of the fee shall be \$676.21 per single-family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be \$449.14 per multi-family residential dwelling unit to be constructed or created by the proposed development.
- (c) The amount of the fee shall be \$676.21 per the number of residential equivalent flow of each industrial, commercial and institutional unit to be constructed or created by the proposed development.
- (d) The fee shall be imposed as a condition of the issuance of the building permit.
- (e) Such fees collected by the City shall be placed in a special fund which shall be separate from the general fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the reserve capacity and expansion of the Wastewater Treatment Plant.
- (f) Such fees shall be expended by the City for the aforesaid purpose within ten (10) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SEC. 3-6-8 FEE REDUCTION**

Any impact fee imposed under this section shall be reduced to compensate for capital costs otherwise imposed by the City, upon the land development subject to this section, for the same public facilities for which an impact fee has been imposed under this section, including by way of special assessments, special charges, land dedications or fees in lieu of land dedications under Ch. 236, Wis. Stats. or any ordinance adopted thereunder or any other items of value. Impact fees imposed under this section shall also be reduced to compensate for monies received from the federal or state government, specifically to provide or pay for the public facilities for which the impact fees under this section are imposed.

**SEC. 3-6-9 ADMINISTRATION AND REVIEW**

All fees collected and special accounts maintained under this section, shall be subject to administration by the City Treasurer. Commencing with the calendar year subsequent to the effective date of this section, the City Treasurer shall report annually to the Common Council with information necessary to determine that all funds collected are spent within the time required, for the purpose intended, and that the amount of fees imposed continues to represent an equitable and

reasonable apportionment of the costs of public improvements and requirements generated by land development. Upon such considerations and for such purposes, the Common Council may make reasonable adjustments to the amount of such fees and determine whether there exists any reasonable need for refund of fees previously collected. The impact fees imposed for future construction under this section shall be adjusted annually each December, with any adjustment to be effective on January 1 of the following year. The annual adjustment will be based on a Construction Cost Index published in the Engineering News Record (the "CCI"). Said percentage shall be calculated on the average of the CCI indices for the Cities of Chicago and Minneapolis.

### **SEC. 3-6-10 APPEAL**

Any developer upon whom an impact fee is imposed under this section as a condition of the issuance of a building permit, shall have the right to contest the amount, collection or use of the impact fee to the Common Council, provided that the developer files a written notice of appeal in the City Clerk's office within 15 days of the developer's filing of an application for a building permit upon which the impact fee is imposed. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the developer's name, address, telephone number, address of property being developed (if available), legal description of the land development upon which the impact fee is imposed, and a statement of the nature of and reasons for the appeal. The City Clerk shall schedule the appeal for consideration by the Common Council at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the developer of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than at least three (3) days before the date of such meeting. Upon review of such appeal, the Common Council may adjust the amount, collection or use of the impact fee upon just and reasonable cause shown.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of all other provisions, sections or portion thereof of this ordinance, which shall remain in full force and effect.