

## TITLE 3

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# Finance and Public Records

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# Chapter 1

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## Finance

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### **Sec. 3-1-1 Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs.**

- (a) There shall be a fee per Section 1-3-1 for processing checks made payable to the City of Washburn that are returned because of insufficient funds in the account in question.
- (b) Collection costs and attorneys fees shall be added to the principal amounts of unpaid bills owed to the City that are placed with collection agencies.

### **Sec. 3-1-2 Duplicate Treasurer's Bond Eliminated.**

- (a) **Bond Eliminated.** The City of Washburn elects not to give the bond on the City Treasurer in his/her capacity as 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:* Section 70.67, Wis. Stats.

### **Sec. 3-1-3 City Budget.**

- (a) **Departmental Estimates.** On or before August 1 of each year, each officer, department, board and committee shall file with the City Administrator-Clerk 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) **Preparation of Proposed Budget.**
- (1) **Preparation.** The Mayor, with the assistance of the Administrator-Clerk and Finance Committee, shall annually prepare and submit to the Council a proposed budget presenting a financial plan for conducting City affairs for the ensuing fiscal year.
  - (2) **Consideration of Estimates.** The Mayor, with the assistance of the City Administrator-Clerk and Finance Committee, shall consider such departmental estimates in consultation with the department head, recommend a budget amount for such department or activity.
- (c) **Proposed Budget.** On or before September 1, the Mayor shall prepare and submit for consideration 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 last preceding fiscal year, with reasons provided 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 Administrator-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 Administrator-Clerk during regular office hours.
- (e) **Hearing.**
- (1) 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 the official newspaper of the City at least fifteen (15) days prior to the time of such public hearing.
  - (2) 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.

*State Law Reference:* Section 62.12, Wis. Stats.

### **Sec. 3-1-4 Changes in Budget.**

Upon written recommendation of the Mayor or Administrator-Clerk, 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 the official newspaper of the City in accordance with Ch. 985, Wis. Stats.

### **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 City Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury. A copy of the resolution designating public depositories shall be filed annually with the State Commissioner of Banking. 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 Claims Against City.**

- (a) **Payment of Claims.** Payment of claims hereunder may be made from the City Treasury after the City Treasurer audits and approves each claim as a proper charge against the Treasury, and endorses his or her approval on the claim after having determined that the following conditions have been complied with:
- (1) That the funds are available thereof for pursuant to the budget approved by the Common Council;
  - (2) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission;
  - (3) That the item or service has been actually supplied or rendered in conformity with such authorization;
  - (4) That the claim is just and valid pursuant to law. The Administrator-Clerk may require the submission of such proof and evidence to support the foregoing as in his/her discretion he/she may deem necessary.
- (b) **Payment of Regular Wages or Salaries.** Regular wages or salaries of City officers and employees shall paid by payroll, verified by the proper City official, department head, board or commission and filed with the City Treasurer in time for payment on the regular pay day.

### **Sec. 3-1-9 Temporary Investment of Funds Not Immediately Needed.**

The City Treasurer may invest any City funds not immediately needed, pursuant to Secs. 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 Mayor, City Treasurer and City Administrator-Clerk, 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/she is otherwise subject, including the unauthorized use thereof.

**Sec. 3-1-11 Receiving Money; Receipt for Same.**

- (a) The City Treasurer or his/her 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 or his/her deputies shall make out a receipt in duplicate for the money so received. The City Treasurer or his/her deputies 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 shall be safeguarded in such manner as the Common Council shall direct.

*State Law Reference:* Section 66.113, Wis. Stats.

**Sec. 3-1-12 Statement of Real Property Status.**

The City Administrator-Clerk and his/her deputies are 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, and sewer bills, current water and sewer bills, contemplated improvements, floodplain status, violations of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. A minimum of forty-eight (48) hours is required for preparation of a statement of real property status. There shall be a fee as prescribed in Section 1-3-1.

**Sec. 3-1-13 Accounts Receivable Billing Procedures.**

Billings by the City may be paid within thirty (30) days after billing without interest. Thereafter, interest may be charged at the rate of one and one-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%) of said charges shall be entered on the tax roll as a special charge and become a lien upon real estate.

**Sec. 3-1-14 Annual Audits.**

A firm of certified public accountants shall be employed each year by the City, subject to the confirmation of the Common Council to conduct a detailed audit of the City's financial transactions and its books, and to assist the City Treasurer in the management of the City's financial affairs, including the City's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the City financial records of the office of the City Treasurer, include the City Treasurer's books, the City's public utilities, Police Department records, and any other books of any boards, commission, officers or employees of the City handling City moneys.

**Sec. 3-1-15 Contracting Authority of City Administrator.**

The City Administrator-Clerk may, on behalf of the City of Washburn, approve and enter into any contract if the contract amount is within the approved City budget and does not exceed Twenty-five Thousand (\$25,000.00).

## CHAPTER 2

### Special Assessments

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3-2-2	Resolution and Report Required
3-2-3	Costs That May Be Paid By Special Assessment
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#### SEC. 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENTS.

- (a) The City of Washburn, by resolution of its Common Council, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by 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: Section 66.62, Wis. Stats.

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

- (a) Public improvements carried out pursuant to Section 66.60, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the Consulting City Engineer, 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 assessment may be paid or that the number of installments will be determined at hearing thereon, and direct the Consulting City Engineer to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk to the Consulting City Engineer. 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 Consulting City Engineer. Upon receipt of copy of such preliminary resolution, the Consulting City Engineer shall prepare the report thereon.

- (b) The report required by Subsection (a) shall consist of:
- (1) Preliminary or final plans and specifications.
  - (2) An estimate of the entire cost of the proposed work or improvement.
  - (3) An estimate, as to each parcel of property affected, of:
    - a. The assessment of benefits to be levied.
    - b. The damages to be awarded for property taken or damages.
    - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
  - (4) 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.
  - (5) 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 shall be paid by the City.
- (b) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Common Council determines to be reasonable and just under the circumstances of each case when a special assessment is levied for the sanitary sewer or water main laid in the other

street upon which such corner lot abuts. Under any circumstances the assessment will not be less than the long way of such lot. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.

#### 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 3-2-2(b)(5) of this Chapter, the City Clerk or Consulting City Engineer 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 and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk shall set 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 Consulting City Engineer 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 be 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 3-2-2 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 Section 66.60(12), Wis. Stats., or any other applicable provision of law.
- (f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

**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 Section 66.60(12) of the Wisconsin Statutes, as amended, within forty (40) days of the date of the final determination of the Common Council.

- (b) Pursuant to Section 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 PAYMENT OF SPECIAL ASSESSMENTS; SPECIAL ASSESSMENT  
A LIEN ON PROPERTY.**

(a) **Payment of Special Assessments.**

- (1) Without interest. Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Clerk within the grace period therein allowed and as allowed in the final resolution.
- (2) After grace period. If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at time of preparation of the first tax roll thereafter the same, together with interest computed thereon at the interest rate established in said final resolution and in said certificates computed from the date of levy (i.e., date of final resolution) or the finalizing of assessable costs, whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owing at any time on principal together with interest to date of payment only.
- (b) **Assessment a Lien.** Pursuant to Subsection (13) of Section 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 setting forth the property location, the current service rendered by the City and the special charge therefor or cost thereof. Such resolution 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. 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, a Class 1 notice published in the official City newspaper at least twenty (20) days before the hearing or proceeding 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.

- (b) Special charges for current services shall not be payable 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 Section 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 Section 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: Section 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 benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

## Title 3 ► Chapter 3

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### Public Records

<b>3-3-1</b>	Definitions
<b>3-3-2</b>	Duty to Maintain Records
<b>3-3-3</b>	Legal Custodian(s)
<b>3-3-4</b>	Public Access to Records
<b>3-3-5</b>	Access Procedures
<b>3-3-6</b>	(Reserved for Future Use)
<b>3-3-7</b>	Destruction of Records
<b>3-3-8</b>	Preservation through Microfilm

#### **Sec. 3-3-1 Definitions.**

- (a) **Authority.** Any of the following City of Washburn 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.** 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.** 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, CDs, 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.

**3-3-1**

- (d) **Direct Cost.** The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) **Actual Cost.** 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 City 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 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.

<b>Authority</b>	<b>Designated Legal Custodian</b>
City Assessor's Office	City Assessor
General City Records (including Council Records)	City Clerk
Fire Department	Fire Chief

Police Department	Chief of Police
Financial Records	City Treasurer
City Attorney's Office	City Attorney
Utility Records	Utility Clerk

- (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.
- (e) The City Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

### **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 of twenty-five cents (25¢) per page to defray the cost of copying records. Accident reports shall cost One Dollar (\$1.00) if picked up at the Police Department or Three Dollars (\$3.00) if mailed.
  - (1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
  - (2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and video-tapes, shall be charged.
  - (3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - (4) 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.

- (5) 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).
- (6) 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.
- (7) 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 legal 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 (Reserved for Future Use)**

### **Sec. 3-3-7 Destruction of Records.**

- (a) 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 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.
- (b) 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.

**3-3-7**

- (c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than 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.
- (d) 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.
- (e) 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.
- (f) 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.

**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.

## Title 3 ► Chapter 4

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# Accommodations Tax

<b>3-4-1</b>	Definitions
<b>3-4-2</b>	Accommodations Tax Established
<b>3-4-3</b>	Exempt Transactions
<b>3-4-4</b>	Washburn–Bayview Room Tax Commission

### Sec. 3-4-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Hotel** and **Motel** mean 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, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, including mobile homes, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospital, sanatorium or nursing home 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 Sec. 77.51(4)(a) and (b), Wis. Stats., insofar as applicable.
- (c) **Transient** means any person residing for a continuous period of less than one (1) month in a hotel or motel.
- (d) **Exempt Entities** shall be defined as the federal government and persons listed under Sec. 77.54(a), Wis. Stats.

### Sec. 3-4-2 Accommodations Tax Established.

- (a) **Tax Established.** Pursuant to Sec. 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms and 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 six and one-half percent (6-1/2%) of the gross receipts from such retail furnishing of rooms and lodging. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52(2)(a)1, Wis. Stats.

- (b) **Administration.** This Chapter shall be administered by the City Clerk-Treasurer. The tax imposed is due and payable within thirty (30) days of the end of each calendar quarter. A return shall be filed with the Clerk-Treasurer by those furnishing at retail such rooms and lodging within the City on or before the same date on which such tax is due and payable upon a form approved by the City Clerk-Treasurer.
- (c) **Permit Required.** Every person furnishing rooms or lodging subject to the accommodations tax shall be required to obtain an accommodations tax permit and shall file with the Clerk-Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Clerk-Treasurer. At the time of making an application, the applicant shall pay the Clerk-Treasurer a fee for each permit per the City's fee schedule.
- (d) **Permit Issuance.** After compliance with Subsection (c) and Subsection (k) by the applicant, the Clerk-Treasurer shall grant and issue to each applicant a separate permit for each place of business within the City of Washburn. Such permit 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 conspicuously displayed at the place for which issued.
- (e) **Failure to Comply.**
  - (1) When any person fails to comply with this Chapter, the Clerk-Treasurer may, upon ten (10) days' notification and after affording such person the opportunity to show cause before the City of Washburn Common Council why his/her permit should not be revoked or suspended, revoke or suspend any or all permits held by such person under this Chapter.
  - (2) The Clerk-Treasurer shall give to such person written notice of the suspension or revocation of any permit. Such notice may be provided to the owner, operator, or registered agent of the permittee, or may be left with any adult apparently in charge of the office for the previously permitted accommodations. The notice shall give twenty-four (24) hours from the time of service for the removal of all guests from the previously permitted accommodations. The Washburn Police Department is authorized to post, seal, and take any other action reasonably necessary to effectuate the suspension or revocation. The Clerk-Treasurer shall not issue a new permit after revocation of a permit until said person complies with the provision of this Chapter. A Five Hundred Dollar (\$500.00) fee, plus any actual costs necessary to obtain and enforce the suspension or revocation, shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked, and shall be paid in full before renewal or issuance of a new permit.
- (f) **Responsibility for Tax Payment.** If any person liable for any amount of tax under this Chapter sells the business or stock of goods or quits the business, the person's successors

or assigns jointly and severally shall be responsible for any unpaid tax due under this Chapter.

(g) **Determination of Tax by Audit.**

(1) The Clerk-Treasurer may by office or field audit determine the tax required to be paid to the City or the refund due to any person under this Chapter. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Clerk-Treasurer's possession.

(2) The Clerk-Treasurer, or any person authorized by the Clerk-Treasurer, is authorized to examine and inspect the books, records, memoranda, sales tax returns, and property of any person in order to verify the tax liability of that person or of another person. In the event any person fails to comply, or hinders in any manner, the request to inspect and audit the person's financial records, such person shall be penalized five percent (5%) of the accommodations tax that the Clerk-Treasurer determines was due for the period in question.

(h) **Failure to File Return.** If any person fails to file a return as required by this Chapter, the Clerk-Treasurer shall make an estimate of the amount of the gross receipts under Subsection (a). Such estimate shall be made for the period for which such person failed to make a return when due as stated in Subsection (g). The Clerk-Treasurer may estimate the gross receipts based on an average of gross receipts in previous years for the quarter for which the return has not been filed, or on any other information readily available to the Clerk-Treasurer. An audit under Subsection (g) is not required to make such an estimate. On the basis of this estimate, the Clerk-Treasurer shall compute and determine the amount required to be paid to the City, plus a penalty equal to ten percent (10%) thereof.

(i) **Interest on Unpaid Taxes.** All unpaid taxes under this Chapter shall bear interest at the rate of one percent (1%) per month from the due date of the return until the first day of the month following the month in which the tax is paid.

(j) **Late Filing Fee and Penalties.** Any delinquent tax return shall be subject to a Twenty-five Dollar (\$25.00) late filing fee. The tax imposed by this Chapter shall become delinquent if not paid by the due date of the return. In the event a person fails to pay accommodations tax when due, in addition to interest and any other penalties for late filing or audit, the person shall be subject to and pay a penalty of twenty-five percent (25%) of the tax in addition to the amount that is due and owing. This penalty shall not exceed One Thousand Dollars (\$1,000.00).

(k) **Records.**

(1) 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 in such form as the Clerk-Treasurer requires.

(2) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Clerk-Treasurer are deemed to be confidential, except the Clerk-Treasurer may divulge their contents to the following, and no others:

- a. The person who filed the return.
  - b. Officers or agencies of the City as may be necessary to enforce collection.
- (3) No person having an administrative duty under this Chapter 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 Chapter, or any amount or source of income, profits, loss, 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. The Clerk-Treasurer may publish statistics classified so as not to disclose the identity of particular returns.
- (l) **Forfeitures; Penalties.** Any person who is subject to the tax imposed by this Section who fails to obtain a permit, fails to allow the inspection of his/her records by the Clerk-Treasurer after such inspection has been duly requested by the Clerk-Treasurer, fails to file a return when due under this Chapter, operates a hotel or motel after suspension or revocation, or violates any other provision of this Chapter, shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00). Each day or portion thereof that such violation continues is hereby deemed to constitute a separate offense.
- (m) **References.** Reference to the terms "person", "anyone", "others", or like references shall be deemed to refer to the person, sole proprietorship, company, partnership, corporation, limited liability company, limited liability partnership, and any other entity subject to the tax imposed by this Chapter, and also a responsible member, a responsible officer or responsible managing agent of any such entity unless the context clearly indicates otherwise.

*State Law Reference:* Sec. 66.0615, Wis. Stats.

### **Sec. 3-4-3 Exempt Transactions.**

- (a) "Exempt Entities", as defined in Section 3-4-1(d), shall not be charged said accommodation tax provided that the procedure set forth in Section 3-4-3(b) are complied with.
- (b) The following conditions shall occur for a lodging charge to be exempt from the accommodation tax established above:
  - (1) The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity; and
  - (2) The lodging establishment must receive from the exempt entity:
    - a. In the case of federal and Wisconsin state or local governmental units, a purchase order or similar written document (such as a letter of authorization), or
    - b. In the case of a non-profit, religious, charitable, scientific or educational organization, the organization's certificate of exempt status number.

- (3) The exemption still applies if the employee of an exempt entity pays the room charge with his/her own funds, as long as the above conditions are met.

### **Sec. 3-4-4 Washburn-Bayview Room Tax Commission.**

- (a) **Authority.** The City of Washburn, by its Mayor and Clerk-Treasurer, may enter into agreement with the Town of Bayview pursuant to Sec. 66.0615(1m)(b)(2), Wis. Stats., to establish a Washburn-Bayview Room Tax Commission, for the purpose of coordinating tourism promotion and development within the City of Washburn and the Town of Bayview.
- (b) **Organization.** Appointments to the Washburn-Bayview Room Tax Commission, terms of commissioners, and election of officers shall be as provided for in the agreement between the City of Washburn and the Town of Bayview. All appointments to the Commission to be made by the City shall be made by the Mayor and confirmed by a majority vote of the members of the Common Council who are present when the vote is taken.
- (c) **Powers and Duties of the Commission.** The Washburn-Bayview Room Tax Commission shall have the powers and duties of a room tax commission under Sec. 66.0615, Wis. Stats., and as provided for under the agreement between the City of Washburn and the Town of Bayview.
- (d) **Room Tax To Be Paid To Commission.** The City of Washburn shall pay to the Commission the percentage of its room tax revenues as established in the agreement between the City of Washburn and the Town of Bayview.

*State Law Reference:* Sec. 66.0615, Wis. Stats.

## CHAPTER 5

### Disposal of Surplus Property

#### 3-5-1 Disposal of Surplus City Property

#### SEC. 3-5-1 DISPOSAL OF SURPLUS CITY PROPERTY.

(a) **Definitions.**

- (1) "Surplus City Property" is that property which is owned by the City of Washburn 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 Common Council shall determine whether or not the item is surplus City property.
- (2) Whenever the fair market value of the item is more than Five Hundred Dollars (\$500.00), the Common Council 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.
- (2) Whenever the fair market value of an item is more than Five Hundred Dollars (\$500.00) and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, the department head responsible for the items shall dispose of the property by:
  - a. Donation to a nonprofit organization within the City or to a governmental agency; or
  - b. Public auction; or
  - c. Sale by sealed bid; or
  - d. Negotiated sale.
- (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, that a lower bid submitted by a nonprofit organization or

## Disposal of Lost, Abandoned, and Surplus Property

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.

- (4) No public auction or awarding of bids 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 is first published as a Class 2 notice in the official City newspaper.
  - (5) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Common Council has determined, pursuant to the previous Section, that it is surplus City property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.
- (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.
- (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.

## Title 3 ► Chapter 6

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# Sale of City-Owned Property

<b>3-6-1</b>	Findings and Purpose
<b>3-6-2</b>	Definitions
<b>3-6-3</b>	Sale of Listed Properties
<b>3-6-4</b>	Creation of List
<b>3-6-5</b>	Changes to the List
<b>3-6-6</b>	Sale of Property Included on List
<b>3-6-7</b>	Requests for Land Donation
<b>3-6-8</b>	Vacation of Streets and Alleys
<b>3-6-9</b>	General Provisions

### **Sec. 3-6-1 Findings and Purpose.**

The Common Council finds that the sale of real property owned by the City of Washburn is in the City's interests when such lands are properly designated as available for sale and when such sales are carried out in a fashion that promotes the common good. The purpose of this Chapter is to establish comprehensive procedures for identifying real property owned by the City that is suitable for sale and for processing such sales.

### **Sec. 3-6-2 Definitions.**

The following definitions shall be applicable in this Chapter:

- (a) **List of Properties Available for Sale.** The list created and maintained pursuant to this Chapter, and approved by the Common Council, and may be referred to as the "list."
- (b) **Real Property.** Land and any permanent improvements thereon, except that it does not include any improvement sold on the condition that it be removed from City-owned land, and it does not include any parcel within any City-designated business, commercial or industrial park or City-owned residential subdivision for which the City has adopted specific lease or sale procedures, but it does include any transfer to or from the City's Redevelopment Authority and any transfer pursuant to the provisions of Sections 66.1331 through 66.1337, Wis. Stats.

### **Sec. 3-6-3 Sale of Listed Properties.**

The City may sell any real property included on the list. The City may not sell any real property that is not included on the list.

### **Sec. 3-6-4 Creation of List.**

- (a) No later than six (6) months after the passage and publication of this Chapter, the Plan Commission shall recommend to the Common Council parcels of real property to be included on the list.
- (b) In recommending a parcel to be included on the list, the Plan Commission shall take into account all factors relevant to the parcel, including but not limited to the following:
  - (1) The location of the parcel, including the uses of real property near the parcel.
  - (2) The current and past uses of the parcel.
  - (3) The zoning of the parcel.
  - (4) An estimate of the value of the parcel.
  - (5) The potential for future municipal uses of the parcel.
  - (6) Interest expressed in the parcel by potential purchasers.
  - (7) Any special conditions that should be attached to the sale of the property.
- (c) Before recommending that a parcel be included on the list, the Plan Commission shall notify the following departments and shall offer them a reasonable time to file a written objection to the parcel's inclusion on the list. Any department filing such an objection shall state the reason for the objection:
  - (1) Police Department.
  - (2) Fire Department.
  - (3) Ambulance Service.
  - (4) Public Works Department.
  - (5) Harbor Commission.
  - (6) Recreation Department.
  - (7) Redevelopment Authority.
  - (8) Housing Authority.
- (d) The list recommended by the Plan Commission may be modified by the Common Council provided that the addition of any parcel shall be first referred to the Plan Commission for recommendation. The Common Council shall conduct a public hearing on the list prior to a vote on its adoption. The public hearing shall require a Class I notice published in the official newspaper of the City a minimum of ten (10) calendar days prior to the scheduled hearing.
- (e) A current copy of the list shall be posted at City Hall and published no less frequently than once each year in the official newspaper of the City.

### **Sec. 3-6-5 Changes To The List.**

- (a) **Regular Review.** During the second quarter of each calendar year, the Plan Commission shall review the list and recommend any additions, deletions or other changes to the list, using the same factors and procedures as set out in Section 3-6-4. Any such recommendation shall be referred to the Common Council for public hearing as set forth in Section 3-6-4(d) prior to a vote on its approval.
- (b) **Referrals.** The Mayor, Common Council, City Administrator, or the Plan Commission on its own motion may refer any parcel to the Plan Commission for its recommendation as to inclusion on the list or deletion from the list based on the factors as set forth in Section 3-6-4(b). Any such recommendation shall be referred to the Common Council for public hearing as set forth in Section 3-6-4(d) prior to a vote on its approval.
- (c) **Requests.** Any party with an interest in purchasing a parcel of real property that does not appear on the list may request the Plan Commission to recommend inclusion of the parcel on the list, based on the factors as set forth in Section 3-6-4(b). The Plan Commission shall provide notice as provided under Sec. 3-6-4(c) before making any such recommendation. Any such recommendation shall be referred to the Common Council for public hearing as set forth in Section 3-6-4(d) prior to a vote on its approval. Any party making such a request shall be required to deposit with the City Treasurer a sum sufficient to pay for the actual costs of considering the recommendation, including but not limited to copy, postage, publication and appraisal costs.
- (d) **Properties Purchased for Redevelopment.** Any property acquired by the City for the express purpose of redevelopment shall, upon acquisition, be placed on the list. A property is "acquired by the City for the express purpose of redevelopment" if the motion or resolution approving the acquisition expressly states that the property is being acquired for a general or specific redevelopment purpose.

### **Sec. 3-6-6 Sale of Property Included on List.**

- (a) **Negotiation Authority.** The City Administrator is authorized to negotiate the sale of any parcel included on the list, subject to any conditions attached to the parcel's listing, and subject to final approval by the Common Council.
- (b) **Establishment of Fair Market Value.** No property shall be disposed of without an appraisal unless otherwise directed by the Common Council. This provision shall not prevent the Council from entering into a sale of property for terms as determined by the Common Council that may include a sale price of less than fair market value.
- (c) **Sale Documents.** The City Attorney shall prepare all documents related to the property disposition.
- (d) **Property Survey.** A certified survey map may be required for any parcel sold or donated prior to closing.

- (e) **Retention of Utility Easements.** If applicable, the City of Washburn will retain all rights and easements for the operation, maintenance, repair, replacement, and extension of municipal utilities across the City-owned property to be sold including the rights of ingress and egress for municipal employees, agents, and contractors and the City Attorney shall insure such rights are retained in all deeds and leases that are prepared and executed.
- (f) **Waiting Period.** No parcel shall be sold less than thirty (30) days after placement on the list pursuant to Sections 3-6-4 or 3-6-5.

### **Sec. 3-6-7 Requests for Land Donation.**

- (a) Any party seeking the donation of municipal lands shall include in its written request:
  - (1) Proof of the tax-exempt status of the party.
  - (2) The reason the land should be donated.
  - (3) The public purpose for which the land is being sought.
  - (4) The intended use for the donated land including the anticipated construction dates, types of services to be offered, the expected number of users of the service, and anticipated neighborhood impact.
- (b) Any request for a donation of City-owned lands shall be referred to the Plan Commission for consideration and recommendation using the same factors and procedures as set out in Section 3-6-4. Any such recommendation shall be referred to the Common Council for public hearing as set forth in Sec. 3-6-4(d) prior to a vote on its approval.

### **Sec. 3-6-8 Vacation of Streets and Alleys.**

Unless the Common Council determines, after receiving the recommendation of the Plan Commission, that the public interest does not so require, the City shall retain utility easements to all vacated streets, alleys and other public ways. Absent such determination, any motion to vacate, and all recorded vacation documents, shall explicitly state that:

*"The City of Washburn retains all rights for the operation, maintenance, repair, replacement or extension of municipal utilities within the vacated property including the right of ingress and egress for its employees, agents and contractors, and the benefiting property owner shall be prohibited from creating any improvement, constructing any building or structure, or planting any vegetation that will interfere with this right retained by the City."*

**Sec. 3-6-9 General Provisions.**

- (a) **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such ruling shall not affect the validity of the remaining portions of this Chapter.
- (b) **Contravening Ordinances and Resolutions Repealed.** All ordinances or resolutions or parts of ordinances or resolutions contravening the provisions of this Chapter are hereby repealed.