

### TITLE 3

#### Finance and Public Records

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### CHAPTER 1

#### Finance

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

Pursuant to Sec. 70.65(2), Wis. Stats., the Village Clerk/Treasurer shall, in computing the tax roll, insert only the aggregate amount of state, county, school and local taxes in a single column in the roll opposite the parcel or tract of land against which the tax is levied, or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied.

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

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

- (a)**Village Liable for Default of Clerk/Treasurer.** Pursuant to Sec. 70.67(2), Wis. Stats., the Village shall be obligated to pay, in case the Village Clerk/Treasurer shall fail to do so, all state and county taxes required by law to be paid by such Clerk/Treasurer to the County Treasurer.

State Law Reference: Sec. 70.67, Wis. Stats.

**SEC. 3-1-3VILLAGE BUDGET**

- (a) **Departmental Estimates.** When requested by the Village Clerk/Treasurer, each officer, department and committee shall annually file with the Village Clerk/Treasurer an itemized statement of disbursements made to carry out the powers and duties of such officer, department 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 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 Village Clerk/Treasurer 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 Village President, with the assistance of the Village Clerk/Treasurer and the Village Board, shall consider such departmental estimates in consultation with the department head and develop a budget amount for such department or activity.
- (c) **Form of Proposed Budget.** Each year the Village Clerk/Treasurer shall prepare and submit to the Board a proposed budget presenting a financial plan for conducting the affairs of the Village for the ensuing calendar year. The budget shall include the following information:
- (1) The actual expenditures of each department and activity for the expired portion of the current year, and last preceding fiscal year, and the estimated expense of conducting each department and activity of the Village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
  - (2) An itemization of all anticipated income of the Village from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Village 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) All existing indebtedness of the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
- (5) Such other information as may be required by the Board and by state law.
- (d) **Copies of Budget.** The Village Clerk/Treasurer 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 Village Clerk/Treasurer during regular office hours.
- (e) **Report and Hearing.**
- (1) The Village Clerk/Treasurer shall make a report no later than the Village Board's first November meeting. The report shall include the estimated cost of improvements as well as the estimated cost of operating the various departments and all other costs, including interest charges, for which money will have to be raised by taxation during the following year.
- (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 thereon, shall be posted at least fifteen (15) days prior to the time of such public hearing.
- (3) Not less than ten (15) days after the posting of the proposed budget and the notice of hearing thereon, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the Village shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time. Following the public hearing, the proposed appropriation ordinance may be changed or amended and shall take the same course in the Village Board as other ordinances.

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

The amount of the tax to be levied or certified, the amounts of the various appropriations, and the purposes thereof shall not be changed after approval of the budget except upon the recommendation of the Village President and upon a two-thirds (2/3) vote of the entire membership of the Village Board. Notice

of such transfer shall be given by posting within ten days thereafter in the official Village newspaper.

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

No money shall be drawn from the treasury of the Village, 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 Board, 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.

State Law Reference: Sec. 61.51(3), Wis. Stats.

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

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

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

**SEC 3-1-8 CLAIMS AGAINST VILLAGE**

(a) **Claims to Be Certified.** Prior to submission of any account, demand or claim to the Village Board for approval of payment, the Village Clerk/Treasurer shall certify, or cause to be endorsed thereon or on attached papers, that the following conditions have been complied with:

(1) That funds are available therefor pursuant to the budget.

(2) That the item or service was duly authorized by the proper official or agency and has been received or rendered in accordance with the purchasing agreement.

(3) That the claim is accurate in amount and a proper charge against the treasury.

(1) No account or demand against the Village, except as provided in Subsection (c) of this Section, shall be paid until it has been reviewed by the Village Board and an order drawn on the Village Clerk/Treasurer therefor. Every such account shall be itemized and certified as provided in Subsection (a).

(2) All money paid out of the Village treasury shall be paid upon an order signed by the Village Clerk/Treasurer, except that payments of regular wages or salaries shall be as provided in Subsection (c) below. The minutes of the proceedings of the Board, or a statement attached thereto, shall show to whom, and for what purpose, every such account was allowed and the amount. Items already authorized by the Board or routine and time-dependent statements, such as utility bills, may be paid by the Village Clerk/Treasurer without utilizing the procedures of this Section.

(c) **Payment of Regular Wages or Salaries.** Regular wages or salaries of Village officers and employees shall be paid by payroll, verified by the proper Village official, department head, board or commission and filed with the Village Clerk/Treasurer in time for payment on the regular pay day.

State Law Reference: Sec. 61.51, Wis. Stats.

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

The Village Clerk/Treasurer may invest any Village 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 RECEIVING MONEY; RECEIPT FOR SAME**

(a) The Village Clerk/Treasurer, and 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 they may then be serving, without giving a receipt therefor in the manner specified by the Village Board.

- (b) Upon the payment of any money (except for taxes as herein provided), the Village Clerk/Treasurer shall make out a receipt in duplicate for the money so received. The Village Clerk/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 Village or to the Village or to the Village Clerk/Treasurer shall be safeguarded in such manner as the Village Board shall direct.

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

### **SEC. 3-1-11 STATEMENT OF REAL PROPERTY STATUS**

The Village Clerk/Treasurer and his designees 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, outstanding citations on building code violations and similar information. Any such information sought shall be provided to the person requesting it on said form. Requests for Statements of Real Property Status shall be made to the Village Clerk/Treasurer a minimum of two (2) business days in advance. A fee of Five Dollars (\$5.00) shall be charged for compiling this information.

### **SEC. 3-1-12 BIDDING PROCEDURES**

- (a) **Adoption of City Bidding Procedures.** Pursuant to Sec. 61.56, Wis. Stats., the Village does hereby provide that as a complete alternative to the requirements of Sections 61.54, 61.55, and 66.29 of the Wisconsin Statutes and in lieu thereof, that the provisions of Sec. 62.15, Wis. Stats., shall be applicable to all Village contracts for public construction over Ten Thousand Dollars (\$10,000.00). The authority vested in the Board by Sec. 62.15 of the Wisconsin Statutes shall be exercised by the Village Board or by a committee designated by the Village Board.
- (b) **Construction by the Village.** Any class of public construction may be done directly by the Village without submitting the same for bids provided that the same is authorized by a vote of three-fourths (3/4) of all members of the Village Board.

State Law Reference: Sections 61.54, 61.55 and 62.15, Wis. Stats.

**SEC. 3-1-13 BID SOLICITATION PROCEDURES.**

**(a) Definitions.**

- (1) Verbal Quotation Form. The Village solicits verbal quotations on items the Village purchases, which are less than Ten Thousand Dollars (\$10,000.00).

The results of the verbal quotations are recorded on a memorandum of verbal quotation form.

- (2) Informal Quotation. An informal quotation is a written request for quotation sent to vendors. The informal quotation is used for the purchase of goods and services in an amount less than Ten Thousand Dollars (\$10,000.00).

- (3) Formal Bid. The formal bid procedure is used for public works services in an amount of Ten Thousand Dollars (\$10,000.00) and higher, and in some instances in amounts less than this amount. The formal bid procedure requires a legal public notice and contains detailed, written specifications regarding the public works services to be purchased and a number of specific conditions associated with the purchase.

**(b) Bid Solicitation**

- (1) Competitive bids or quotations shall be obtained before contracting to purchase articles, goods, wares, material services or merchandise which amount in bulk to more than One Thousand Dollars (\$1,000.00). Purchases up to One Thousand Dollars (\$1,000.00) may be made by either telephone quotations, informal written quotations or formal bid. Purchases from One Thousand Dollars (\$1,000.00) to Ten Thousand Dollars (\$10,000.00) shall be made by written quotation, telephone quotation or formal bid. Purchases of Ten Thousand Dollars (\$10,000.00) and over, pursuant to Subsection (a) above, shall be made by formal bid unless exempted from it by action of the Village Board.

- (2) Verbal quotations for goods and services shall be secured from at least two (2) qualified vendors and the results of the quotations shall be recorded on the "Memorandum of Verbal Quotation" form and signed by the person receiving the quotations.

- (3) Informal requests for written quotations shall be solicited from at least three (3) qualified bidders on the request for quotation form. All written requests for quotations shall be issued by the applicable department

heads and returned to and analyzed by the applicable department heads. Informal requests for written quotations may also be solicited by telephone. Vendors shall be given a reasonable time to respond to the request for an informal, written quotation and shall be given clear, concise specifications and informal bidding instructions to facilitate competitive bidding.

(4) When a formal bid is required or deemed to be in the best interests of the Village, the bidding procedure shall follow the legal requirements associated with a Class One notice under State Statute and the procedures normally associated with the formal bid proposal.

(5) The formal bid proposal will contain at least the following information:

a. The bid number.

b. A detailed description of the goods and services required, including enough information about the items or services required so that more than one (1) vendor can meet the specifications.

c. The time, date and place the bids will be opened.

d. The address to which the bids shall be mailed or delivered. Instructions to bidders shall include such information as delivery dates, transportation charges, proposal prices, conditions for guaranteeing the proposal, payment terms, right of rejection of proposals, right to reject merchandise, insurance requirements, alternative proposal consideration, tax information, and other appropriate information regarding the awarding and execution of the contract and contract considerations.

e. The bid proposal shall also include a section on special provisions including guarantees and service considerations, trade-in considerations, and other information relating to special conditions.

f. A completion date with fines to be mandated if not adhered to.

(6) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the Village Clerk/Treasurer shall insure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.



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

Billings by the Village 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 and shall be entered on the tax roll as a special charge and become a lien upon real estate.

**SEC. 3-1-15LIABILITY OF THE VILLAGE FOR ACTS OF AGENTS**

No agent of the Village of Neosho having authority to employ labor or to purchase materials, supplies or any other commodities, may bind the Village or incur any indebtedness for which the Village may become liable without approval of the Village Board. Each such employment or purchase order shall be drawn against a specific appropriation, the money for which shall be available in the Village treasury and not subject to any prior labor claims or material purchase orders at the time when such employment is negotiated or purchase order drawn. The Village Clerk/Treasurer shall keep a record of such employment and purchase orders and shall charge them against the proper appropriation. Purchase order system as set up by the Village Board.

## CHAPTER 2

### Special Assessments

- 3-2-1 Village Board May Levy Special Assessments
- 3-2-2 Resolutions 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 Board Actions After Hearing
- 3-2-7 Combined Assessments
- 3-2-8 Board's Power to Amend, Cancel or Confirm Special Assessment
- 3-2-9 Where Cost of Improvement is Less Than Assessment
- 3-2-10     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     Special Assessment B Bonds

#### **SEC. 3-2-1 VILLAGE BOARD MAY LEVY SPECIAL ASSESSMENTS**

- (a) The Village of Neosho, by resolution of its Village Board, 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.
- (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 Village Board.

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

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

- (a) Prior to making any such special assessments, the Village Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under Section 3-2-5 of this Chapter and direct the proper municipal officer or employee to make a

report thereon. Such resolution may limit the proportion of the cost to be assessed.

(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 damaged.

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 benefitted, 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 Village Clerk/Treasurer for public inspection.

(c)When the Village Board 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), Wis. Stats. and Subsections (a) and (b) above, shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

### **SEC. 3-2-3COSTS 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 Village 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 Village Board.

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

- (a) If any property deemed benefitted shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the Village.
- (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 Village Board 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 circumstance the assessment will not be less than the long way of such lot. The Village Board 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**

On the completion and filing of the report required in Section 3-2-2(b)(5) of this Chapter, the Village Clerk/Treasurer shall give notice stating 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 Village Board or committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be given either by publication in the official Village newspaper or posted in not less than three (3) public places within the Village and a copy of said notice shall be mailed to each interested person whose post office address is known. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or posting of said notice.

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

- (a) After the hearing, the Village Board may approve, disapprove, modify or rerefer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable assessment.
- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Village Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.

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- (1) If the work or improvement has not been previously authorized or approved, the Village Board 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 Village Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Village Board shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The Village Clerk/Treasurer shall publish the final resolutions 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 Section 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 Village Board 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 BOARD'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 Village Board 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 Village Clerk/Treasurer as provided in Section 3-2-6 of this Chapter.

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

If the cost of the work or improvement is less than the assessment levied, the Village Board without notice or hearing shall reduce

## Special Assessments

each assessment proportionately. If the assessment has been paid either in part or in full the Village shall refund the property owner such overpayment.

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

Pursuant to Subsection (12)(f) of Sec. 66.60, 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. 3-2-11SPECIAL 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 Village.

The Village Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Village Board 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. 3-2-12SPECIAL CHARGES PERMISSIBLE**

(a) In addition to all other methods provided by law, special charges for current services may be imposed by the Village Board by allocating all or part of the cost of the property served. Such 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 service and tree care or removal. The provision for notice of such charges shall be optional with the Village Board except that in the case of street, sidewalk, curb or gutter repair, twenty (20) days notice published in the Village newspaper, or by posting such notice in three (3) places in the Village 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 Village Board as to whether the service in question shall be performed.

(b) Such special charges shall not be payable in installments. If not paid within the period fixed by the Village Board, such delinquent charge shall become a lien as provided in Section 3-2-11 of this Chapter.

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(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 Village Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.

(b) The Village Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefitted 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 Village may levy special assessments for work or improvement against the property benefitted 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 SPECIAL ASSESSMENT B BONDS**

As an alternative to any other financing method, the Village Board may provide for the payment of the initial cost of any public improvement from the proceeds of special assessment "B" bonds issued under Sections 66.54(10) and (11), Wis. Stats. Special assessments to retire such bonds and pay the interest thereon shall be levied under Section 66.60, Wis. Stats., payable in such installments at a rate to be determined by the Board based upon borrowed money rates at the time of the special assessment.

**CHAPTER 3**

Public Records

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

**SEC. 3-3-1DEFINITIONS**

PUBLIC RECORDS

(3-3-1) DEFINITIONS.

(a) "Authority" means any of the following having custody of a Village record: a Village office, elected official, agency, board, commission, committee, department or public body corporate and politic created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the foregoing.

(b) "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 the 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 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.

(d) "Local public office" has the meaning given in Wis. Stat. § 19.42(7w), and also includes any appointive office or position of the Village in which an individual serves as the head of a department, agency, or division of the Village, but does not include any office or position filled by a Village



municipal employee, as defined in Wis. Stat. § 111.70(1) (i).

(3-3-2) MAINTAINING RECORDS.

(a) Each officer and employee of the Village shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office of which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which he may be lawfully entitled as such officer or employee.

(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 successor all records then in his custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Village 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.

(c) Pursuant to Wis. Stat. § 19.21(4) (c), any record required to be kept and preserved under this section may keep and preserve such record through the use of microfilm or another reproductive device, optical imaging or electronic formatting provided that such means meets any applicable standards established under Wis. Stat. §§ 16.61(7) and 16.612. Any photographic reproduction of a record authorized to be reproduced under this paragraph is deemed an original record for all purposes if it meets the applicable standards. 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 this Code.

(3-3-3) LEGAL CUSTODIANS.

(a) Each elected official is the legal custodian of his records and the records of his office, but the official may designate an employee of his staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the Village Clerk or the Clerk's designee shall act as legal custodian for the Village Board and for any committees, commissions, boards or other authorities created by

ordinance or resolution of the Village Board. This shall not include the Police and Fire Departments whose custodians shall be the Police Chief and the Fire Chief, respectively.

(c) For every authority not specified in paragraphs (a) or (b) above, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee. This subsection shall not apply to the Village Board.

(e) The designation of a legal custodian does not affect the powers and duties of an authority under this section.

(3-3-4) PROCEDURAL INFORMATION. Pursuant to Wis. Stat. § 19.34, 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. The notice shall also separately identify each position of the authority that constitutes a local public office. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of this section. This section does not apply to members of the Village Board.

(3-3-5) PUBLIC ACCESS TO RECORDS; FEES.

(a) Except as provided in subsection (7) below, any person has a right to inspect a record and to make or receive a copy of any record as provided in §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 48 hours' advance notice of intent to inspect or copy.

(d) A requester shall be permitted to use facilities

comparable to those available to Village employees to inspect, copy or abstract a record. This subsection does not authorize or require the purchase or lease of equipment nor does it require the provision of a separate room for inspection, copying or abstracting of records.

(e) The authority 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 to defray the cost of locating and copying records as follows:

1. A cost per page of photocopying, as determined by the Village Clerk, shall be charged. Said cost shall not exceed the actual, necessary and direct costs to the authority of reproduction, and such charges shall be prominently displayed and made available for inspection by the authority at his office.

2. If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

3. The actual full cost of providing a copy of other records not in printed form on paper such as films, computer printouts and audio or video tapes shall be charged.

4. If mailing or shipping is necessary, the actual cost thereof shall also be charged.

5. There shall be no charge for locating a record unless the actual cost therefor exceeds \$50.00, in which case the actual cost shall be determined by the authority and billed to the requester.

6. The authority shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment if such estimate exceeds \$5.00.

7. The authority may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.

(a) A request to inspect or copy a record shall be made to the authority. 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 Wis. Stat. § 19.37. 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 subsection (5)(f), above. 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. When the legal custodian has doubts as to whether the requested records are exempt from disclosure, in whole or in part, he shall have 3 working days to confer with the Village Attorney prior to making a determination. If the legal custodian, after conferring with the Village 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 request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in subsection (7) below. 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 5 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 Wis. Stat. § 19.37(1), or upon application to the Attorney General or a district attorney.

(3-3-7) LIMITATIONS ON RIGHT TO ACCESS.

(a) The limitations on access identified in Wis. Stat. § 19.36 are incorporated herein by reference.

(b) 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 Village Attorney, may deny the request, in whole or in part, only if he 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. Records of current deliberations after a quasi-judicial hearing.
3. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Village officer or employee, or the investigation of charges against a Village officer or employee unless such officer or employee consents to such disclosure.
4. Records concerning current strategy for crime detection or prevention.
5. Records of current deliberations or negotiations on the purchase of Village property, investing of Village funds or other Village business whenever competitive or bargaining reasons require nondisclosure.
6. In accordance with, and subject to Wis. Stat. §19.356, 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 or privacy interest of any person referred to in such history or data.
7. Communications between legal counsel for the Village and any officer, agent or employee of the Village when advice is being rendered concerning strategy with respect to current litigation in

which the Village or any of its officers, agents or employees is, or is likely, to become involved, or communications which are privileged under Wis. Stat. § 905.03.

(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 Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If, in the judgment of the custodian and the Village 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.

(3-3-8) RETENTION AND DESTRUCTION OF RECORDS.

(a) The Village adopts the General Records Schedule for Wisconsin Municipal and Related Records (the "Wisconsin Municipal Records Schedule" or "WMRS") promulgated by the Wisconsin Public Records Board. A copy of the currently effective Wisconsin Municipal Records Schedule shall be kept on file in the office of the Village Clerk. Unless a different retention period is required by law, any record kept and preserved under this section which is considered obsolete may be destroyed pursuant to the schedule established in the WMRS. For any obsolete record which is not specifically identified in the WMRS, destruction shall occur not less than 7 years after the record was effective. This section shall supersede any previous records schedules adopted by the Village.

(b) The Wisconsin State Historical Society shall be notified at least 60 days prior to the destruction of any record under Wis. Stat. § 19.21(4)(a), unless the State Historical Society has otherwise waived the notification requirement.

(c) Any tape recording of a governmental meeting of the Village may be destroyed, erased or reused no sooner than 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.

## Public Records

(d) Police records, other than investigative records, shall be retained for 7 years. However, unless the records are subject to a pending open records request or in any way relate to a matter pending before a court or quasi-judicial body, the following exceptions apply:

(1) Videotape and audio cassette recordings utilized for purposes related to law enforcement may be destroyed, erased or reused after 120 days.

(2) Recordings made of radio dispatches and telephone calls to and from the dispatch operator may be destroyed, erased or reused after 120 days.

(e) This section shall not be construed to authorize the destruction of any public record after a period less than prescribed by statute or State administrative regulations.

## CHAPTER 4

### Disposal of Lost, Abandoned and Surplus Property

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

#### **SEC. 3-4-1 DISPOSAL OF SURPLUS VILLAGE PROPERTY**

##### **(a) Definitions.**

(1) "Surplus Village Property" is that property which is owned by the Village of Neosho and which has no further usefulness to the Village. 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 Village property and no probable future function exists for it; or
- b. The Village 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 Village property shall not include property which is obtained by the Village as a result of abandonment or loss by the property's original owner. Surplus Village property shall not include items of property which are traded in for newer items.

##### **(b) Determination of Surplus Village Property.**

- (1) Whenever an item of Village property is determined to be surplus Village property on the basis that the Village no longer performs the service for which the item was purchased, the Village Board shall determine whether or not the item is surplus Village property.
- (2) Whenever the fair market value of the item is more than Five Thousand Dollars (\$5,000.00), the Village Board shall determine whether or not the item is surplus Village property.



Disposal of Lost, Abandoned and Surplus Property

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

- (1) Whenever the Village Board determines that an item of property is surplus Village 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 Village Board has determined, pursuant to the previous Subsection, that the item is surplus Village property, the department head responsible for the items shall dispose of the property by:
    - a. Donation to a nonprofit organization within the Village 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 or donated in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Village Board. 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 Village. In the event no bids are received, the item shall be disposed of as directed by the Village Board.
  - (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 Village newspaper.
  - (5) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Village Board has determined, pursuant to the previous Section, that it is surplus Village 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

## Disposal of Lost, Abandoned and Surplus Property

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 Village Board may dispose of Village property which is not surplus Village property.
- (2) Whenever this Section provides for an auction or other disposition of any property, the Village Board 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 Village labor and the use of Village property, do not exceed the payment received by the Village from the auction or sale of the property.

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

### (a) **Village 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 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 Village 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 Village 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

## Disposal of Lost, Abandoned and Surplus Property

the Chief of Police, a copy of which shall remain with the Village Clerk/Treasurer.

### (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 Village shall be disposed of as follows, except that if the property is usable for Village operations, the property need not be sold at auction, but may become the property of the Village.

a. **Vehicles:** Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, 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. 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

Disposal of Lost, Abandoned and Surplus Property

Dollars (\$100.00) shall be sold at public auction or by sealed bid.

f. Illegal property: Property which cannot be legally possessed shall be destroyed.

(2) Disposal by 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 2 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official Village newspaper. 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. 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 Village and the amount of the bid be forfeited to the Village.

b. Any Village official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by 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 portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any Village employee finding property in the regular course of his employment.

(4) Payment to Village Treasury. All sums received from the sale of property under this Section shall be paid to the Village Treasury.

State Law Reference: Sec. 66.28, Wis. Stats.

## Disposal of Lost, Abandoned and Surplus Property