

TITLE 3

Finance and Public Records

- Chapter 1 Finance
- Chapter 2 Special Assessments
- Chapter 3 Public Records
- Chapter 4 Disposal of Lost, Abandoned, and Surplus Property
- Chapter 5 Hotel-Motel Room Tax

CHAPTER 1

Finance

- 3-1-1 Delinquent General Fund and Utility Fund Accounts
- 3-1-2 Duplicate Treasurer's Bond Eliminated
- 3-1-3 City Budget
- 3-1-4 Changes in Budget
- 3-1-5 City Funds to be Spent in Accordance with Appropriation
- 3-1-6 Fiscal Year
- 3-1-7 Public Depositories
- 3-1-8 Claims Against City
- 3-1-9 Temporary Investment of Funds Not Immediately Needed
- 3-1-10 Facsimile Signatures
- 3-1-11 Receiving Money; Receipt for Same
- 3-1-12 Statement of Real Property Status
- 3-1-13 Accounts Receivable Billing Procedures
- 3-1-14 Annual Audits
- 3-1-15 Liability of City for Acts of Agents
- 3-1-16 Penalty for Nonpayment of Taxes
- 3-1-17 Deposit of Public Funds Received by City Employees

SEC. 3-1-1 DELINQUENT GENERAL FUND AND UTILITY FUND ACCOUNTS.

Pursuant to the authority granted in Sections 66.0627 and 66.0809(3), Wis. Stats., the following procedure shall apply to the collection of delinquent accounts for water, sewer, electric service, garbage, snow and ice removal, weed elimination, tree care, and charges for abatement of a public nuisance when so determined by an appropriate municipal official, and other city services for which property owners and/or occupants are responsible:

- (a) Between October 1 and October 15 of each year the City Clerk-Treasurer shall prepare a list of the lots or parcels including the owners and occupants, if

known, of property for which overdue charges are due as described above. These overdue charges shall include charges that are due to the City as of October 1 of the year in question that remain unpaid as of that date, whether they were incurred in the year in question or before.

(b) On October 15 of each year or on the last business day before October 15 if the same shall fall upon a weekend, the City Clerk-Treasurer or Plymouth Utilities designee shall cause a notice to be sent to the owner of the parcel of land in question and to the occupants, if known, stating the amount of the delinquent charges and arrearages, including any penalties assessed pursuant to the rules of the City, and that unless the same are paid by November 1, a ten percent (10%) penalty of the amount of such charges and arrears will be added thereto and that unless such charges, arrears, and any added penalties are paid by November 15, the same will be levied as a tax against the lot or parcel of real estate to which the municipal service was provided and for which payment is delinquent. If utility service is furnished directly to a mobile home unit in a licensed manufactured home park, the notice shall be given to the owner of the manufactured home unit, and the delinquent amount becomes a lien on the home rather than the real estate.

(c) The owner or occupant must file a written protest with the City Clerk-Treasurer by November 15 to preserve the right to protest the arrearages, charges, and penalties. The notice specified in Subsection (b) of this Section shall be mailed to the owner or occupant at the post office address of the lot or parcel of real estate and shall include the Public Works and Utilities Committee meeting date at which time a public hearing will be held to consider any protests by any owner or occupant. The Public Works and Utilities Committee shall establish guidelines for the presentation and review of information at the public hearing. The Committee may, in its discretion, provide for a reasonable and appropriate adjustment to prior Utility service charges or affirm the amount as justly due. All decisions of the Committee shall be final.

(d) On the day after the Public Works and Utilities Committee meeting specified in Subsection (c), the City Clerk-Treasurer shall certify a list of all lots or parcels, giving the legal description for which notice of arrears was given and for which arrears remains unpaid, stating the amount of arrears and penalty. If such lot or parcel is outside the City limits, the Clerk-Treasurer shall forward the certification to the appropriate Town Clerk for placement on the tax roll. Each delinquent amount and penalty becomes a lien upon the lot or parcel of real estate and the City Clerk-Treasurer shall insert the delinquent amount and penalty as a tax against the lot or parcel of real estate.

(e) The owner of a rental dwelling unit shall provide written notification to Plymouth Utilities identifying the name and address of the owner and name and address of the tenant responsible for utility charges along with a copy of the

lease agreement. If such information is provided, Plymouth Utilities shall provide notice of arrears to the owner pursuant to Wis. Stat. § 66.0809(5)(b).

(e) All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to such tax if the same is not paid within the time required by law for payment of taxes upon real estate.

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

(a) **Bond Eliminated.** The City of Plymouth elects not to give the bond on the City Clerk/Treasurer provided for by Wis. Stat. § 70.67(1).

(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 Clerk/Treasurer shall fail to do so, all state and county taxes required by law to be paid by such City Clerk/Treasurer to the County Treasurer.

State Law Reference: Wis. Stat. § 70.67.

SEC. 3-1-3 CITY BUDGET.¹

(a) **Departmental Estimates.** On or before October 1 of each year, each officer, department, board and committee shall file with the City Clerk/Treasurer and Director of City Services 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 year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.

(b) **Consideration of Estimates.** The Finance & Personnel Committee, with the assistance of the Director of City Services and City Clerk/Treasurer, shall consider such departmental estimates in consultation with department heads, recommend to the Common Council a budget amount for such department or activity.

(c) **Proposed Budget.** On or before October 20, the Finance & Personnel Committee, with the assistance of the Director of City Services and the City Clerk/Treasurer, shall submit to the Common Council a proposed budget

¹ Amended by Ordinance No. 21 of 2011. Enacted on November 29, 2011.

presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall include the following:

- (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) **Hearing.** The Mayor shall preside over the public hearing on the annual budget.

- (1) The Director of City Services shall submit to the Council at the time the annual budget is submitted for Council consideration the draft of an appropriation resolution providing for the expenditures proposed for the ensuing fiscal 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 thereof shall be published in the official newspaper of the City at least fifteen (15) days prior to the time of such public hearing.
- (3) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.
- (4) A majority vote of the Common Council is required to adopt the proposed budget and a vote of three-quarters (3/4) of the Council is necessary to adopt the appropriations budget.

State Law Reference: Wis. Stat. § 62.12.

SEC. 3-1-4 CHANGES IN BUDGET.²

Upon written recommendation of the Mayor, Director of City Services, or City Clerk-Treasurer, the Council may at any time, by a two-thirds (2/3) vote of the entire membership, transfer any portion of any unencumbered balance of an appropriation to any other purpose or object unless legally restricted. Notice of such transfer shall be given by publication within ten (10) days thereafter in the official newspaper of the City.

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 Clerk/Treasurer and bondsman shall not be liable for such losses as are defined by state law. The Clerk/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: Wis. Stat. ch. 34 and § 62.12(7).

SEC. 3-1-8 CLAIMS AGAINST CITY.

(a) **Payment of Claims.** In addition to, and in lieu of the other methods provided by statute for the payment of claims against the City, financial claims

² Amended by Ordinance No. 22 of 2011. Enacted on November 29, 2011.

against the City may be paid from the City treasury after the Clerk/Treasurer shall have audited and approved each such claim as a proper charge against the Treasury and shall have endorsed his approval thereon, after having determined that the following conditions have been complied with:

- (1) That funds are available therefore, pursuant to the budget approved by the 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 Clerk-Treasurer may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.

(b) **Public Finance Committee to Audit Accounts.**

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

(2) After auditing, the Clerk/Treasurer shall endorse on each account the words "allowed" or "disallowed", adding the amount allowed or specifying the items or parts of items disallowed. If the Common Council shall approve the same, it shall direct the Clerk/Treasurer to issue a City order for the amount of the claim approved. All money paid out of the City treasury shall be paid upon an order signed by the Mayor and countersigned by the 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 Council or a statement attached thereto, shall show to whom, and for what purpose, every such account was allowed and the amount.

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

(d) **Complaints.** Any person may file a complaint with the City Clerk's office concerning any matter of which the person has any concern. Such a complaint

shall be filed on a form available from the City Clerk's office, and shall not be considered as initiation of the formal claim procedure as provided by subparagraph (a) above.

(Adopted 9/08)

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

The City Clerk/Treasurer may invest any City funds not immediately needed, pursuant to Wis. Stat. § 66.0601, 66.0603, and 219.05.

State Law Reference: Wis. Stat. §§ 66.0601, 66.0603, and 219.05.

SEC. 3-1-10 FACSIMILE SIGNATURES.

In lieu of the personal signatures of the City Clerk/Treasurer and Mayor, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Common Council, but the use of the facsimile signature shall not relieve such official from any liability to which he is otherwise subject, including the unauthorized use thereof.

SEC. 3-1-11 RECEIVING MONEY; RECEIPT FOR SAME.

(a) The City Clerk/Treasurer or his deputies shall not receive any money into the treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefore in the manner specified by the Common Council.

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

State Law Reference: Wis. Stat. § 66.0515.

SEC. 3-1-12 STATEMENT OF REAL PROPERTY STATUS.

The Office of the Clerk-Treasurer is authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, electric, and sewer bills, current water 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 Twenty Five Dollar (\$25.00) fee for compiling such information.

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 October, Bills not paid on or before the fifteenth (15th) day of October 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 Clerk/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 Clerk/Treasurer, include the City Clerk/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 LIABILITY OF THE CITY FOR ACTS OF AGENTS.

No agent of the City having authority to employ labor or to purchase materials, supplies or any other commodities, may bind the City or incur any indebtedness for which the City may become liable without approval of the Council. Each such employment or purchase order shall be drawn against a specific appropriation, the money for which shall be available in the City 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 City Clerk/Treasurer shall keep a record of such employment and purchase orders and shall charge them against the proper appropriation.

SEC. 3-1-16 PENALTY FOR NONPAYMENT OF TAXES.³

In accordance with the provisions of Wis. Stat. § 74.47(2), there is hereby imposed a penalty of 0.5% per month or fraction of a month, in addition to the one percent interest imposed by Wis. Stat. § 74.47(1) on any delinquent general property taxes, (including personal property taxes), special assessments, special charges, and special taxes included in the tax roll.

³ Amended by Ordinance No. 5 of 2014. Enacted on April 8, 2014.

SEC. 3-1-17 DEPOSIT OF PUBLIC FUNDS RECEIVED BY CITY EMPLOYEES.

(a) Any and all public funds received by any official, employee, or agent of the City on behalf of the City shall be deposited with the City Clerk-Treasurer in its entirety within five (5) days of receipt. Any and all expenditures from such funds shall be made only by the City Clerk-Treasurer upon purchase order being submitted by the party requesting payment and after approval by the Common Council. Any failure to strictly adhere to this provision shall be grounds for appropriate discipline, including suspension or dismissal, of the offending party.

(b) Sufficient and accurate records of all receipts shall be maintained by all officials, employees, and agents of the City receiving any funds on behalf of the City, and shall be audited on a quarterly basis by the City Clerk-Treasurer. All such records shall be immediately produced at the office of the Clerk-Treasurer for audit upon request being made therefore. Any irregularities noted by the City Clerk-Treasurer shall be reported to the Common Council.

(c) Petty cash funds may be maintained only upon specific authorization by the Common Council, and may not exceed an amount designated thereby, and shall be considered as an exception to the provisions of section (a) of this section.

(d) The Plymouth Library and Plymouth Utility shall be excluded from the operation of this section.

(e)⁴ Any payment received by any department of the City of Plymouth which shall be returned as worthless by the financial institution upon which the same shall be drawn shall result in an additional fee in the amount of Thirty Dollars (\$30.00) which shall be collected with the subsequent attempted repayment thereof in cash or by cashier's or certified check.

CHAPTER 2

Special Assessments

- 3-2-1 Common Council May Levy Special Assessments
- 3-2-2 Resolution and Report Required
- 3-2-3 Costs That May Be Paid By Special Assessment
- 3-2-4 Exemptions; Deductions
- 3-2-5 Notice of Proposed or Approved Project
- 3-2-6 Council Actions After Hearing
- 3-2-7 Combined Assessments
- 3-2-8 Council's Power to Amend, Cancel or Confirm Special Assessment
- 3-2-9 Where Cost of Improvement is Less Than Assessment

⁴ Amended by Ordinance No. 3 of 2018. Enacted January 30, 2018.

- 3-2-10 Appeals; Appealed Assessments Payable When Due
- 3-2-11 Special Assessment a Lien on Property
- 3-2-12 Special Charges Permissible
- 3-2-13 Miscellaneous Provisions
- 3-2-14 Special Assessment B Bonds

SEC. 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENT.

(a) The City of Plymouth, 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 a way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefore. 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: Wis. Stat. § 66.0701.

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

(a) Public improvements carried out pursuant to Wis. Stat. § 66.0703 and this Chapter shall be initiated by a preliminary resolution presented to the Council by the Director of Public Works or Utilities Manager, 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 Director of Public Works or Utilities Manager to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk/Treasurer to the Director of Public Works or

Utilities Manager. The City Clerk/Treasurer shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Director of Public Works or Utilities Manager. Upon receipt of copy of such preliminary resolution, the Director of Public Works or Utilities Manager 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/Treasurer 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 Wis. Stat. § 66.0703 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 therefore, 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/Treasurer required in Section 3-2-2(b)(5) of this Chapter, the City Clerk/Treasurer or City Engineer shall prepare a Notice of Hearing, which notice shall comply with Wis. Stat. § 66.0703 (7)(a) 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-Treasurer 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/Treasurer 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 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 therefore 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 Clerk/Treasurer 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 Wis. Stat. § 66.0703(12) or any other applicable provision of law.
- (f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk/Treasurer 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 Clerk/Treasurer 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 Wis. Stat. § 66.0703(12), as amended, within forty (40) days of the date of the final determination of the Common Council.

(b) Pursuant to Wis. Stat. § 66.0703 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/Treasurer 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 payment of the balance owing at any time on principal together with interest to date of payment only.

(3) Installments. Special assessments shall be payable in seven (7) equal annual installments, and at an interest rate one percent (1%) above the municipal borrowing rate at the time of adoption of a final resolution therefore.

(b) **Assessment a lien.** Pursuant to Wis. Stat. § 66.0703(13), 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 therefore 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, retention pond maintenance 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 Wis. Stat. § 66.0627, 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 Wis. Stat. § 66.0627, as amended.

(c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

(d) All persons, firms, corporations, businesses and other entities who shall receive weights and measures services pursuant to Wis. Stat. § 98.04 shall be assessed the costs of such services pursuant to said statute. The total of the fees assessed and collected shall not exceed the actual cost of the yearly weights and measures services. Such costs shall be paid upon billing, or, in default of such payment by the fifteenth (15th) day of October of the same year, shall be added to the next tax roll as a delinquent tax against the property served. Interest shall be added to the amount due pursuant to PMC § 3-1-13.

(Revised 04/09)

State Law Reference: Wis. Stat. § 66.0627.

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.

SEC. 3-2-14 SPECIAL ASSESSMENT B BONDS.

As an alternative to any other financing method, the Common Council may provide for the payment of the initial cost of any public improvement from the proceeds of special assessment "B" bonds issued under Wis. Stat. §§ 66.073(4) and (5). Special assessments to retire such bonds and pay the interest thereon shall be levied under Wis. Stat. § 66.703, payable in such installments at a rate to be determined by the Council based upon borrowed money rates at the time of the special assessment.

CHAPTER 3

Public Records

- 3-3-1 Definitions
- 3-3-2 Duty to Maintain Records
- 3-3-3 Legal Custodian(s)
- 3-3-4 Public Access to Records
- 3-3-5 Access Procedures
- 3-3-6 Limitations on Right to Access
- 3-3-7 Destruction of Records
- 3-3-8 Preservation Through Microfilm
- 3-3-9 Public Service and Construction Contract Provisions

SEC. 3-3-1 DEFINITIONS.

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

(b) "Custodian" means that officer, department head, division head, or employee of the City designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.

(c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed

pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest, and published materials in the possession of any copyright authority other than a public library which are available for sale, or which are available for inspection at a public library.

(d) "Direct Cost" means the actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.

(e) "Actual Cost" means the total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

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

(a) Except as provided under Section 3-3-7, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefore to the officer or employee, who shall file said receipt with the City Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk/Treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

SEC. 3-3-3 LEGAL CUSTODIAN(S).⁵

(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/Treasurer to act as the legal custodian.

(b) The City Clerk/Treasurer or the Clerk/Treasurer's designee shall act as legal custodian for general City records, for the Common Council and for any committees, commissions, boards, or other authorities created by state statute or ordinance or resolution of the Common Council, except as otherwise provided in

⁵ Amended by Ordinance No. 18 of 2018. Enacted on November 27, 2018.

this section. The following offices or authorities shall have as a legal custodian of records the individual so named. All such records named herein shall be provided to the designated legal custodian.

Authority	Designated Legal Custodian
Assessment, Zoning and Building	City Assessor/Building Inspector Inspection/Zoning Administrator Records
General City Records	City Clerk-Treasurer (including Council Records)
Fire Department	Fire Chief
Police Department	Chief of Police
Public Works (including cemetery	Director of Public Works (and parks records)
City Attorney's Office	City Attorney
City Utilities	Utilities Manager

(c) Notwithstanding subsection (b), the City Clerk/Treasurer shall be the legal custodian of all financial records for the authorities and the City Administrator/Utilities Manager or his/her designee shall be the legal custodian for all personnel records of the authorities. All such records shall be provided to the herein identified custodians.

(d) For every office authority, or record type not specified in Subsections (a) through (c), if any, 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.

(e) 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/Treasurer.

(f) The City Clerk/Treasurer 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 Wis. Stat. § 19.35(1).
- (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.
- (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 therefore 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 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. 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 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 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 therefore. 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 (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.

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

(a) As provided in Wis. Stat. § 19.36, the following records are exempt from inspection under this Chapter.

(1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;

(2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;

(3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and

(4) Pursuant to Wis. Stat. § 905.08, a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials, or information which are obtained from a person and which are generally recognized as confidential.

(b) As provided by Wis. Stat. § 43.30, public library circulation records are exempt from inspection under this Section.

(c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request in whole or in part only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include but are not limited to the following:

(1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.

(2) Pursuant to Wis. Stat. § 19.85(1)(a), records of current deliberations after a quasi-judicial hearing.

(3) Pursuant to Wis. Stat. §§ 19.85(1)(b) and (c), records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, subject to the requirements established pursuant to the opinion of the Wisconsin

Supreme Court in the case of *Milwaukee Teachers' Education Association vs. Milwaukee Board of School Directors* (Case No. 97-0308, July 8, 1999).

(4) Pursuant to Wis. Stat. § 19.85(1)(d), records concerning current strategy for crime detection or prevention.

(5) Pursuant to Wis. Stat. § 19.85(1)(e), records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.

(6) Pursuant to Wis. Stat. § 19.85(1)(f), financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7) Pursuant to Wis. Stat. § 19.85(1)(g), communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Wis. Stat. § 905.03.

(8) Pursuant to Wis. Stat. § 19.85(1)(h) requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(e) Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to Wis. Stat. § 70.47(7)(af) or any successor statute thereto, then such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except however, that said information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in

performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a Court. Income and expense information provided to the Assessor under Wis. Stat. § 70.47(7)(af), unless a court determines that it is inaccurate is, pursuant to Wis. Stat. § 70.47(7)(af), not subject to the right of inspection and copying under Wis. Stat. § 19.35(1).

SEC. 3-3-7 DESTRUCTION OF RECORDS.

(a) City officers may destroy the following non-utility 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 Wis. Stat. ch. 442 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 Wis. Stat. § 16.61(3)(e) 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 Wis. Stat. ch. 442, 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 Wis. Stat. § 16.61(3)(e) 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.

(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 Wis. Stat. § 16.61(3)(e) 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 Wis. Stat. § 7.23.

(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 Wis. Stat. § 19.21(4)(a).

(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/Treasurer, 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 Wis. Stat. §§ 16.61(7)(a) and (b) 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.

SEC. 3-3-9 PUBLIC SERVICE AND CONSTRUCTION CONTRACT PROVISIONS.

All contracts for public services and construction entered into by the City of Plymouth shall contain the following provision:

Any and all records, as such term is defined by Wis. Stat. § 19.32, generated, produced, or collected by, or in the possession or custody of Contractor, with respect to its performance under and pursuant to this contract, shall be made available and furnished to the Municipality at no cost upon request from a person holding a local public office of the Municipality, and within a reasonable time, and in such form or format, whether hard or electronic, as such Municipal official shall request. Should the Municipality be subjected to any litigation or penalty whatsoever pursuant to Wis. Stat. § 19.37, Contractor shall indemnify and hold harmless the Municipality from any and all costs of such litigation and from any and all penalties for any failure of Contractor to produce such records in a timely and proper manner. All of the provisions set forth in Wis. Stat. §§ 19.35 through 19.37 shall be applicable with respect hereto.

The term "record", as defined by Wis. Stat. § 19.32(2), 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), computer printouts, and optical disks. "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.

The term "local public office" as defined by Wis. Stat. § 19.42(7w) means any of the following offices of the municipality:

- (a) An elective office of a local governmental unit.
- (b) A city or village manager.
- (c) An appointive office or position of a local governmental unit in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.
- (d) An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action or a position filled by an independent contractor.

Authority: *WIREdata, Inc. v. Village of Sussex, Village of Thiensville, City of Port Washington*, 2005AP1473, 2006AP174, 2006AP175 (Ct. App. Jan 3, 2007)

CHAPTER 4

Disposal of Lost, Abandoned, and Surplus Property

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

SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY.

(a) **Definitions.**

(1) "Surplus City Property" is that property which is owned by the City of Plymouth 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 and the fair market value of the item, or group of similar or identical items, is greater than Five Hundred Dollars (\$500.00) whether individually or collectively, it shall dispose of such property as it determines.

(2) Whenever the fair market value of an item, or group of similar or identical items, is less than Five Hundred Dollars (\$500.00) whether individually or collectively, and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, the department head responsible for the item shall dispose of the property by one of the following methods as such department head shall determine:

- a. Donation to a nonprofit organization within the City or to a governmental agency;
- b. Public auction;
- 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 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.

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

(a) **City Custody of Lost or Abandoned Property.**

(1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.

(2) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.

(3) No City employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.

(4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.

(5) No City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the City Clerk/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 City shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.

a. Vehicles: Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 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: 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 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. Air guns shall not be sold and shall be destroyed.

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, except that items valued at less than Twenty-five Dollars (\$25.00) may be given to a charitable organization. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.

e. Other Property with a Fair Market Value of Over One Hundred Dollars (\$100.00): An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction 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 City newspaper. The proper 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 City and the amount of the bid be forfeited to the City.

b. Any City 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 City employee finding property in the regular course of his employment.

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

(5) **City Use.** At its option, the City may retain for City use items otherwise designated for disposal under this Section.

State Law Reference: Wis. Stat. § 66.319.

CHAPTER 5

Hotel-Motel Room Tax

3-5-1	Definitions
3-5-2	Imposition of Tax
3-5-3	Collection of Tax
3-5-4	Security Required
3-5-5	Records to be Maintained
3-5-6	Confidentiality Required
3-5-7	Penalties

SEC. 3-5-1 DEFINITIONS.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

(a) **Hotel or Motel.** A building or group of buildings in which the public may obtain accommodations for a consideration, including without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospital, sanatoriums or nursing homes 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 Wis. Stat. §§ 77.51(11)(a), (b) and (c) insofar as applicable. Any federal or state tax exempt transactions shall not be included in the definition of gross receipts.

(c) **Transient.** Any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

SEC. 3-5-2 IMPOSITION OF TAX.⁶

⁶ Amended by Ordinance No. 20 of 2008. Enacted on November 25, 2008.

Pursuant to Wis. Stat. § 66.0615 a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of eight percent (8%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Wis. Stat. § 77.52(2)(a)1.

SEC. 3-5-3 COLLECTION OF TAX.

(a) Administration by City Clerk-Treasurer.

(1) This tax shall be administered by the City Clerk-Treasurer. The tax imposed by Section 3-5-2 for each calendar quarter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the City Clerk-Treasurer by those furnishing at retail such rooms and lodging on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the City Clerk-Treasurer deems necessary, provided it is directly related to the tax.

(2) Every person required to file such quarterly returns shall also file an annual calendar year return which shall be filed within ninety (90) days of the close of each calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the City Clerk-Treasurer requires, provided it is directly related to the tax. Such annual returns shall be made on forms prescribed by the City Clerk-Treasurer. All annual returns shall be signed by the persons required to file a return, or his duly authorized agent, but need not be verified by oath.

(b) **Application for Permit.** For each place of business, every person furnishing rooms or lodging under this Chapter, for the purpose of identifying such business, shall file an application with the City Clerk-Treasurer for a permit to operate a hotel or motel as defined in this Chapter. Every application for permit shall be made upon a form prescribed by the City Clerk-Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business and such other information as the City Clerk-Treasurer requires. The application shall be signed by the owner, if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such seller. At the time of making an application, the applicant shall pay to the City Clerk-Treasurer a fee of One Dollar (\$1.00). Once issued, such

permits need not be renewed. Permits shall be subject to suspension and revocation for violations of any provisions of this Chapter.

(c) **Permits Not Assignable.** After compliance with Subsection (b), the Common Council shall approve and the City Clerk-Treasurer shall issue a separate permit to each applicant for each place of business within the City. 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.

(d) **Right of Hearing Upon Denial.** The Common Council shall grant or deny an application for a permit no later than forty-five (45) days after application. If the application for a permit is denied, the applicant shall be given written notice of the reasons for denial and shall be given an opportunity to be heard thereon. If the applicant desires a public hearing, he shall file a written request therefore with the City Clerk-Treasurer, and the Council shall hold a public hearing thereon no later than the second Council meeting following filing of the request for hearing.

(e) **Suspension and Revocation of Permit.**

(1) Any permit issued hereunder may be suspended or revoked by the Common Council for a violation of any provision of this Chapter. The permittee shall be given notice of the reasons for the suspension or revocation and opportunity to be heard before the Common Council for the purpose of determining whether such suspension shall be imposed or whether the permit shall be revoked. Upon sworn, written complaint of the City Clerk-Treasurer filed with the City Clerk-Treasurer's office alleging that a person holding a permit under this Chapter has violated this Chapter, the Common Council shall issue a summons signed by the Clerk-Treasurer and directed to any peace officer in the City. The summons shall command the permittee complained of to appear before the municipal governing body on a day and place named in the summons, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why his permit should not be revoked or suspended. The summons and a copy of the complaint shall be served on the permittee at least three (3) days before the time at which the permittee is commanded to appear. Service shall be in the manner provided under Wis. Stat. ch. 801 for service in civil actions in circuit court.

(2) If the permittee does not appear as required by the summons, the allegations of the complaint shall be taken as true; and if the municipal governing body finds the allegations sufficient, the permit shall be revoked. The Clerk-Treasurer shall give notice of the revocation to the person whose permit is revoked. The Clerk-Treasurer shall give notice of the revocation to the person whose permit is revoked. If the permittee appears as required by the summons and denies the complaint, both the

complainant and the permittee may produce witnesses, cross-examine witnesses and be represented by counsel. The permittee shall be provided a written transcript of the hearing at his expense. If, upon the hearing, the municipal governing body finds the complaint to be true, the permit shall either be suspended or revoked. The Clerk-Treasurer shall give notice of the suspension or revocation to the person whose permit is suspended or revoked. If the municipal governing body finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. Upon suspension or revocation, the permittee shall surrender his permit to the City Clerk-Treasurer's office.

(f) **Report Due Upon Sale or Conveyance of Business.** If any person liable for any amount of tax under this Section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to pay such amount until the former owner produces a receipt from the City Clerk-Treasurer that such tax has been paid for or a certificate stating that no amount is due. If a person subject to the tax imposed by this Section fails to withhold such amount of tax from the sale price and such tax remains unpaid, the buyer and seller shall be jointly responsible for the payment of such tax.

(g) **Audit of Returns.**

(1) The City Clerk-Treasurer may, by field or office audit, determine the tax required to be paid to the City or the refund due to any person under this Chapter. The 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 City Clerk-Treasurer's possession or knowledge. The City Clerk-Treasurer or his designee is authorized to examine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or another person. Nothing herein shall prevent the City Clerk-Treasurer from making a determination of tax at any time.

(2) No refund or modification of the payment determined shall be granted until the person files a correct room tax return and permits the City Clerk-Treasurer to inspect and audit his financial records.

(h) **Failure to Comply with Request to Audit.** Any person who fails to comply with a request by the Clerk-Treasurer to inspect and audit financial records pursuant to this Chapter shall be subject to a forfeiture of not less than three percent (3%) nor more than five percent (5%) of the tax due, together with the costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such costs and forfeitures have been paid, but not to exceed sixty (60) days.

(i) **Penalty for Untimely Returns.** If any person fails to timely file a return, as required by this Chapter, the City Clerk-Treasurer shall make an estimate of the amount of the gross receipts under this Section. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the City Clerk-Treasurer's possession or may come into his possession. On the basis of this estimate, the City Clerk-Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten percent (10%) thereof. One (1) or more such determinations may be made for one (1) or more than one (1) period.

(j) **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 was paid.

(k) **Delinquent tax returns.** Delinquent tax returns shall be subject to a Ten Dollar (\$10.00) late filing fee. The tax imposed by this Chapter shall become delinquent if not paid on the last day of the month next succeeding the calendar quarter for which imposed.

(l) **Failure to Pay Tax.** Any person who fails to pay the room tax prescribed by this Chapter shall be subject to a forfeiture of not less than fifteen percent (15%) nor more than twenty-five percent (25%) of the tax due, together with the costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such costs and forfeitures have been paid, but not to exceed ninety (90) days.

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

SEC. 3-5-4 SECURITY.

In the event that any person fails to timely file a return, as required by this Chapter, or fails to timely pay his tax liability as required by this Chapter, the City Clerk-Treasurer may require such person to place security, not to exceed Five Thousand Dollars (\$5,000.00) with the City.

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

Every person liable for the tax imposed by this Section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the City Clerk-Treasurer and this Chapter shall require.

SEC. 3-5-6 CONFIDENTIALITY MAINTAINED.

All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the City Clerk-Treasurer are deemed to be confidential.

SEC. 3-5-7 PENALTIES.

Any violation of, or noncompliance with, any of the provisions of this Chapter for which a penalty has not been prescribed herein shall subject the violator to a forfeiture of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), together with the costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such forfeiture has been paid, but not to exceed sixty (60) days. Each day of violation or noncompliance shall constitute a separate offense.

History: Ord. No. 8, 2013; Ord. 14, 2017; Ord. 16, 2018;

R:\CLIENT\10745\00007\00032779.DOC