

TITLE 3

Finance and Public Records

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Title 3 – Chapter 1

Finance

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Sec. 3-1-1 Fiscal Management.

The Town Board of the Town of Oshkosh has the specific authority, powers and duties pursuant to § 60.10, 60.20, 60.22, 60.23, 60.40, 60.41, 60.42, 60.44, 60.45, 60.46, 60.47, 65.90, 66.04, 66.15, 66.60, 74.12, Chapter 67 and 70, Wis. Stats., to manage, supervise and direct the fiscal operations of the Town of Oshkosh and to develop, maintain and implement a fiscal management system for the Town.

Sec. 3-1-2 Preparation and Adoption of Budget.

- (a) **Fiscal Year; Annual Budget.** The Town of Oshkosh fiscal year is the calendar year. The Town Budget shall be adopted annually.

- (b) **Preparation.** The Town Board is responsible for preparation of the proposed budget required under §65.90, Wis. Stats. In preparing the budget, the Town Board may provide for assistance by any person.
- (c) **Estimates of Budget.** Each elected officer and each appointed officer responsible for a department, office, special office, committee, commission, agency, board or other special government unit of the Town Clerk of the Town of Oshkosh shall file with the Town Clerk, by a date established by the Town Clerk of the Town of Oshkosh, the following for their department, office, special office, committee, commission, agency, board or other special government unit of the Town.
 - (1) Prior years receipts, revenues, disbursements and expenditures.
 - (2) Current years receipts, revenues, disbursements and expenditures.
 - (3) Estimated receipts, revenues, disbursements and expenditures for next year.
- (d) **Elements of Budget.** Each budget prepared by and approved by the Town Board shall include the following:
 - (1) All existing indebtedness.
 - (2) All anticipated revenue from all sources for ensuing year.
 - (3) All proposed appropriations for departments, committees, commissions and boards, active or reserve accounts for next year.
 - (4) All actual revenues and expenditures for preceding year.
 - (5) All actual revenue and expenditure for not less than (6) months of current year.
 - (6) All estimated revenues and expenditures for the balance of the year.
 - (7) All anticipated unexpended or unappropriated balances and surpluses.
 - (8) Such other information may be required by the Town Board and state law.
- (e) **Elements in Budget Summary.** Each budget summary prepared by and approved by the Town Board shall include the following:
 - (1) All expenditures by major expenditure category for the proposed budget, the budget in effect and the budget of the preceding year.
 - (2) All revenues by major revenue service for the proposed budget, the budget in effect and the budget of the preceding year.
 - (3) Any financial source and use not identified in Subsection (e)(1) and (2) above.
 - (4) All beginning and year-end balances for the proposed budget, the budget in effect and the budget of the preceding year.
- (f) **Copies of Budget.** The Town shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.
- (g) **Hearing.** The Town Board shall conduct the budget hearing required under §65.90, Wis. Stats.
- (h) **Adoption.** The Town Board shall adopt the Town budget. The Town meeting may either retain authority to approve any tax levy needed to support spending approved by the Town Board or may delegate the authority to approve a tax levy to the Board.
- (i) **Amendment.** The Town budget may be amended by the Town Board under §65.90(5), Wis. Stats.

State Law Reference: §60.40 and 65.90, Wis. Stats.

Sec. 3-1-3 Changes in Budget.

The adopted budget shall not be changed after approval of the budget except upon the recommendation of the Chairperson and upon a call two-thirds (2/3) vote of the entire membership of the Town Board. Notice of such change shall be given by publication or posted within eight (8) days thereafter in the official Town newspaper.

Sec. 3-1-4 Town Funds to be Spent in Accordance with Appropriation.

No money shall be drawn from the treasury of the Town, 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 3-1-3 of this Chapter. At the close of each fiscal year, any unencumbered balance of any 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. 3-1-5 Annual Financial Statement.

The Town Board annually shall prepare a statement of the financial condition of the Town and present the statement to the annual town meeting. In preparing the statement, the Town Board may provide for assistance by any person. The statement shall include the previous year's revenues and expenditures and the current indebtedness of the Town.

State Law Reference: §60.41, Wis. Stats.

Sec. 3-1-6 Finance Book.

The Town Treasurer shall maintain a finance book under §60.33(3), Wis. Stats.

Sec. 3-1-7 Financial Audits.

The Town Board shall provide for financial audits under §60.041, Wis. Stats.

State Law Reference: §60.43, Wis. Stats.

Cross Reference: §66.0605 Bi-annually; section 3-1-19

Sec. 3-1-8 Claims Against Town.

(a) Legal Claims Against the Town.

- (1) The Town Board shall develop and maintain a policy and plan, pursuant to §60.44 and 893.80, Wis. Stats., to manage and control any legal claims against the Town of Oshkosh, its officers, its employees and its agents. Claims for money against the Town or against officers, officials, agents or employees of the Town arising out of acts done in their official capacity shall be filed with the Town Clerk as provided under §893.80(b)(1), Wis. Stats. The Town Clerk shall immediately contact the Town Chairperson regarding the claims. The Town Chairperson shall arrange any appropriate and necessary meeting of the Town Board for actions pursuant to §60.44 and 893.80, Wis. Stats., to allow or disallow any claim. The Town Chairperson shall, at his or her discretion, contact the Town Attorney regarding the claim prior to the meeting of the Town Board.
- (2) The Town Board shall allow or disallow the claim. Notice of disallowance shall be made as provided under §893.80(1)(b), Wis. Stats.

(b) Claims Procedure.

- (1) The Town, having adopted a resolution to direct the Town Board to exercise Village Board powers under §60.10(2)(c), Wis. Stats., does now enact an alternative system of approving certain regular financial claims against the Town by virtue of the provisions of §66.044, Wis. Stats.
- (2) Payments may be made from the Town treasury after the Clerk audits and approves each claim as a proper charge and endorses his/her approval on the claim after having determined that the following conditions have been met:
 - (a) That fund is available therefore under the budget approved by the Town Board.
 - (b) That the service covered by such claim has been authorized by the proper official, department head, board or commission.
 - (c) That the service has been actually rendered in conformity with such authorization.
 - (d) That the claim is just valid according to law. The Clerk may require the submission of such proof and evidence to support the above as he/she may deem necessary.
- (3) The authority extended to the Town Clerk above shall apply only to the regular payroll checks of Town employees and the salaries of elected Town officials. All other claims against the Town will be examined and approved in accordance with the applicable law.
- (4) The Clerk shall file with the Town Board, not less than monthly, a list of the claims approved showing the date paid, name of claimant, purpose and amount.
- (5) The Town Board shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Ch. 422, Wis. Stats., and designated by the Town Board.

State Law Reference: §60.44, Wis. Stats.

Sec. 3-1-9 Disbursements from Town Treasury.

Disbursements from the Town treasury shall be made under §66.042, Wis. Stats. No claim, account or demand for payment against the Town shall be paid until a voucher has been filed with or prepared by the Town Clerk. Each check representing a disbursement or transfer of Town funds must be signed by the Town Clerk and Town Treasurer. The Town Board has adopted a resolution, which is filed with each public depository holding Town funds, requiring only two (2) signatures. Each check must also be signed by the Town Chairperson.

State Law Reference: §60.45, Wis. Stats.

Sec. 3-1-10 Facsimile Signatures.

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

Sec. 3-1-11 Public Depository.

The Town Board shall designate one (1) or more public depositories for depositing funds of the Town. These public depositories shall be approved financial institutions as noted in §66.04, Wis. Stats. The Treasurer and the Treasurer's surety are not liable for loss, as defined under §34.01(6), Wis. Stats., or money deposited in the name of the Town in a designated public depository. Interest accruing from Town money in a public depository shall be credited to the Town.

State Law Reference: §60.46, Wis. Stats.

Sec. 3-1-12 Temporary Investment of Funds Not Immediately Needed.

- (a) The Town Treasurer, in cooperation with the Town Board, may invest any Town long-term funds and temporary funds not immediately needed, pursuant to §66.04(2) and 219.05, Wis. Stats.
- (b) The Town Board and the Town Treasurer shall use the following criteria in determining the financial options available for investing the financial assets of the Town:
 - (1) The safety of the investment.
 - (2) The maturity of the investment.
 - (3) The liquidity of the investment.
 - (4) The yield of the investment.

- (5) The other services available to the Town with the investment.

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

Cross-Reference: Section 3-1-22

Sec. 3-1-13 Public Contracts and Competitive Bidding.

- (a) **Definitions.** In this Section:
- (1) "Public contract" means a contract for the construction, execution, repair, remodeling or improvement of any public work or building or for the furnishing of materials or supplies, with an estimated cost greater than Ten Thousand Dollars (\$10,000.00).
 - (2) "Responsible bidder" means a person who, in the judgment of the Town Board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.
- (b) **Advertisement for Bids.** Except as provided in Subsections (d) and (e), the Town may not enter into a public contract unless the Town Board, or a Town official or employee designated by the Town Board, advertises for proposals to perform the terms of the public contract by publishing a Class 2 notice under Ch. 985, Wis. Stats. The Town Board may provide for additional means of advertising for bids. Pursuant to Subsection (a)(1) above, this advertising requirement does not apply to the purchase of equipment; it applies only to the purchase of materials or supplies expected to cost more than Ten Thousand Dollars (\$10,000.00).
- (c) **Contracts to Lowest Responsible Bidder.** The Town Board shall let a public contract for which advertising for proposals is required under Subsection (b) to the lowest responsible bidder. §66.29, Wis. Stats., applies to public contracts let under this Section.
- (d) **Contracts with Governmental Entities.** This Section does not apply to public contracts entered into by a town with a municipality, as defined under §66.30(1)(a), Wis. Stats. Municipality, for this Section is defined as the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, metropolitan sewerage district, sewer utility district, water utility district, mosquito control district, municipal electric company, county or city transit commission or regional planning commission.
- (e) **Exception for Emergencies.** §60.47(5), Wis. Stats., and this Subsection are optional with respect to public contracts for the repair and construction of public facilities when damage or threatened damage to the facility creates an emergency, as declared by resolution of the Town Board, that endangers the public health or welfare of the Town. This Subsection does not apply if the Town Board declares that the emergency no longer exists.
- (f) **Application to Work by Town.** This Section does not apply to any public work performed directly by the Town.

State Law Reference: §60.47, Wis. Stats.

Sec. 3-1-14 Receiving Money; Receipt for Same.

- (a) The Town Treasurer 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 Town Board.
- (b) Upon the payment of any money (except for taxes as herein provided), the Treasurer shall make out a receipt in triplicate for the money so received. The Treasurer shall charge the amount thereof to the treasury and credit the proper account. The payment of the money to any receiving agent of the Town or to the Town or to the Treasurer shall be safeguarded in such manner, as the Town Board shall direct.

State Law Reference: §66.113, Wis. Stats.

Sec. 3-1-15 Duplicate Treasurer's Bond Eliminated.

The Town of Oshkosh elects not to give the bond on the Town Treasurer provided for by §70.67(1), Wis. Stats.

State Law Reference: §70.67, Wis. Stats.

Sec. 3-1-16 Statement of Real Property Status.

The Town Clerk and Town Treasurer are authorized to prepare a Statement of Real Property Status 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, contemplated improvement, floodplain status, violation of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. The Town Clerk or Town Treasurer shall collect a fee of Twenty Dollars (\$20.00) payable at the time a request for compiling such information on said form. The Town Clerk and Town Treasurer shall have a minimum of three (3) business days during the regular work week to satisfy such requests. Neither the Town nor its officials assume any liability when providing this service.

Sec. 3-1-17 Liability of the Town for Acts of Agents.

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

Sec. 3-1-18 Accounts Receivable Billing Procedures.

Billings by the Town 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 first (1st) day of November may 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. 3-1-19 Annual Audits.

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

Sec. 3-1-20 Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs.

- (a) There shall be a fee of Twenty Dollars (\$20.00) for processing checks made payable to the Town that are returned because of insufficient funds in the account in question.
- (b) Collection costs and attorneys fees shall be added to the principal amounts of unpaid bills owed to the Town that are placed with collection agencies.

Sec. 3-1-21 Delinquent Personal Property Taxes.

- (a) Pursuant to the authority of §74.80(2), Wis. Stats., the Town hereby imposes a penalty of one-half percent (0.5%) per month or fraction of a month, in addition to the interest prescribed by §74.80(1), Wis. Stats., on all overdue or delinquent personal property taxes retained for collection by the Town or eventually charged back to the Town by the County for purposes of collection under §74.31, Wis. Stats.
- (b) This penalty of one-half percent (0.5%) per month or fraction of a month shall apply to any personal property taxes, which are overdue or delinquent.

Sec. 3-1-22 Policy for Public Deposits and Investments.

- (a) **Purpose.** It is in the interest of the Town of Oshkosh to adopt a policy to insure continuous prudent deposits and investments of available Town funds. The Town Board of the Town of Oshkosh establishes the following policies in the public interest for the deposit and investment of available Town funds.
- (b) **Public Depositories.**
- (1) **Depositories.** The Town Board shall, by ordinance or resolution, designate one (1) or more public depositories, organized and doing business under the laws of this state or federal law, and located in Wisconsin, in which the Town Treasurer shall deposit all public monies received by her/him.
 - (2) **Limitations.** The resolution or ordinance designating one (1) or more public depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of §66.04(2), Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under §34.07, Wis. Stats., by the public depository to secure the repayment of such deposits. Not more than Five Hundred Thousand Dollars (\$500,000) shall be deposited in any one (1) public depository, unless specifically authorized by the Town Board.
 - (3) **Deposits.** The Town Treasurer shall deposit public monies in the name of the Town of Oshkosh in such public depositories designated by the Town Board and subject to the limitations hereinabove set forth.
 - (4) **Withdrawals.** Withdrawals or disbursements by the Town Treasurer of monies deposited in a public depository shall be made as provided by §66.042(1) to (5), Wis. Stats. The Town Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money transfer techniques as set forth in §66.042(3m), Wis. Stats.
- (c) **Investments.**
- (1) **Management.** Subject to the provisions of this policy, the Town Treasurer shall have control of and discretion in the investment of all Town funds that are not immediately needed and are available for investment.
 - (2) **Intent.** It is the intent of the Town Board that the Town Treasurer utilize a wise and prudent cash management system within the level of her/his expertise in such a manner to insure maximum investment earnings, while at the same time be able to respond promptly to authorized expenditures. Safety, liquidity and yield will be the prime requisites for the investment of Town funds.
 - (3) **Scope.** This policy is limited in its application to funds, which are not immediately needed and are available for investment. Other funds, the investment of which is subject to special federal and/or state laws and regulations, shall be invested in accordance with such laws and regulations to the extent they may be inconsistent with the provisions of this policy.
 - (4) **Responsibility.** In exercising her/his investment responsibilities, the Town Treasurer shall exercise the care, skill, prudence and

diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, having the same resources, and familiar with like matters in the management of a similar activity, with a like purpose.

- (5) **Investments.** The investment of Town funds shall be in accordance with §34.01(5) and 66.04(2), Wis. Stats., as follows:
- (a) **Certificates of Deposit.** Town funds may be invested in certificates maturing within one (1) year or less from the date of investment issued by any banks, savings and loan associations or credit unions, which are authorized to transact business in the State of Wisconsin. The financial institutions must have been designated as a public depository of the Town by resolution or ordinance of the Town Board.
 - (b) **Government Bonds and Securities.** Town funds may be invested in United States government bonds or securities which are direct obligations of or guaranteed as to principal and interest by the federal government; and, bonds or securities which are obligations of any agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. The securities must be purchased through financial institutions authorized to conduct business in the State of Wisconsin and placed in safekeeping in a segregated account in the Town's name at any designated public depository or approved financial institution.
 - (c) **Government Investment Pool.** Town funds may be invested in the Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.
 - (d) **Repurchase Agreements.** Town funds may be invested in repurchase agreements, in financial institutions authorized to conduct business in the State of Wisconsin. Repurchase agreements can only be made in securities, which are direct obligations of or guaranteed as to principal and interest by the federal government; and, securities which are obligations of an agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. Securities purchased by a repurchase agreement must be placed in safekeeping in a segregated account in the Town's name at any designated public depository or approved financial institution.
 - (e) **Wisconsin Investment Trust.** Town funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.
 - (f) **Savings Deposit.** Town funds may be temporarily invested in savings deposits.

(g) **Securities.** The Town Treasurer may invest in private securities which are senior to, or on a parity with, a security of the same issuer which is rated highest or second highest by Moody's Investors Service, Standard & Poor's Corporation or other similar nationally recognized rating agency.

(d) **Miscellaneous.**

- (1) **Liability.** Notwithstanding any other provision of law, the Town Treasurer who deposits public monies in any public depository, in compliance with §34.05, Wis. Stats., is, under the provisions of §34.06, Wis. Stats., relieved of any liability for any loss of public monies which results from the failure of any public depository to repay to the public depositor the full amount of its deposits, thus causing a loss as defined in §34.01(2), Wis. Stats.
- (2) **Definitions.** Words or phrases shall, insofar as applicable, have the meaning set forth in §34.01, Wis. Stats., as amended.
- (3) **Conflicts.** This Section is enacted in accordance with the provisions of Chapter 34 and §66.04 and 66.042, Wis. Stats. In case of conflict, the state laws shall prevail.

Cross-Reference: Section 3-1-12

State Law Reference: Ch. 34 and §66.04 and 66.042, Wis. Stats.

Sec. 3-1-23 Administration of Tax Exempt Property.

- (a) **Purpose.** This Section sets forth procedure concerning administration of the tax-exempt property registration system for Reports (PC-220 at time of passage).
- (b) **Duties.** By July 1 of each even numbered year, the Town Clerk must complete and deliver a Taxation District Summary Report (PC-226 at time of passage) to the Wisconsin Department of Revenue. This report should summarize information provided by the tax-exempt property owners, with their report due January 1 each even numbered year. The Clerk will make a reasonably diligent effort to ensure that all tax-exempt property owners are sent the registration form, and have returned the same. When said form has not been received by the Clerk by January 1, said Clerk shall send the property owner(s) a notice, by certified mail, return receipt requested, stating that the property for which the form is required will be appraised at the owner's expense, and a forfeiture imposed, if a completed form is not received by the Clerk within thirty (30) days after the notice is sent. The Clerk is responsible for form distribution and review.
- (c) **Fees.** Since administration time of an elected official, and possibly other Town officer (Deputy Clerk) or employees to whom duties are delegated by the Clerk is involved, and since such workload is due to the existence of tax exempt property within the Town, the Town Board affirmatively states that it is fair and logical to charge a fee, as authorized under state law. After consideration of the administration time involved, the number of parcels per tax exempt entity, and expenses to the Town, such as postage, copies, etc., the Board believes the

following fee is reasonable, to be charged per tax exempt entity, regardless of the number of parcels for each:

(1) Twenty Dollars (\$20.00) when paid by January 31 of the registration year.

(2) Forty Dollars (\$40.00) late fee is not remitted by the January 31 deadline.

- (d) **Licensing.** Prompt payment of fees shall be a condition of receiving or renewing any license issued by the Town to the tax exempt property owner, when applicable. Timely submission of the required report is likewise a licensing condition, and requires accurate information.

Title 3 – Chapter 2

Special Assessments

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Sec. 3-2-1 Town Board May Levy Special Assessments.

- (a) The Town of Oshkosh by resolution of its Town 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 Town Board.

State Law Reference: § 66.62, Wis. Stats.

Sec. 3-2-2 Resolution and Report Required.

- (a) Prior to making any such special assessments, the Town 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 benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimated 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 Town Clerk for public inspection.

Sec. 3-2-3 Cost 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 Town and the cost of any architectural, engineering and legal services and any other item of direct or indirect costs 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 Town Board.

Sec. 3-2-4 Exemptions; Deductions.

- (a) If any property deemed benefited shall, by reason of any provision of law, be exempt from assessment therefor, such assessment shall be computed and shall be paid by the Town.
- (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 Town 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 Town 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 Town Clerk 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 Town 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 Town newspaper or posted in not less than three (3) public places 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 Town Board may approve, disapprove, modify or re-refer 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 is made against any property and an award of compensation or damage be made in favor of the property, the Town Board 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 Town Board shall 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 Town Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Town Board shall, by resolution, confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The Town Clerk 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 §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 Town Board may combine the assessments as a single assessment on each property affected except that the property owner may object to any one (1) 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 Town 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 Town Clerk as provided in Section 3-2-6 of this Chapter.

Sec. 3-2-9 Where Cost of Improvement is Less Than Assessment.

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

Sec. 3-2-10 Appealed Assessments Payable When Due.

Pursuant to Subsection (12(F) of §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 be dismissed.

Sec. 3-2-11 Special Assessment a Lien on Property.

Pursuant to Subsection (13) of §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 Town or appropriate utility district. The Town Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Town 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. 3-2-12 Special Charges Permissible.

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by the Town 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 Town Board except that, in the case of street, sidewalk, curb or gutter repair, twenty (20) days' notice published in the Town newspaper, or by posting such notice in three (3) places in the Town 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 Town 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 Town Board, such delinquent charge shall become a lien as provided in Section 3-2-11 of this Chapter.
- (c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

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 Town Board may thereafter reassess or charge pursuant to the provisions of any applicable law.
- (b) The Town Board 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 Town may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

Title 3 – Chapter 3

Public Records

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3-3-10	Income and Expense Provided to Assessor for Assessment Purposes

Sec. 3-3-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Authority.** Any of the following Town entities having custody of a Town record; an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- (b) **Custodian.** That officer, department head, division head or employee of the Town designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any Town records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
- (c) **Record.** Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

- (d) **Town.** The Town of Oshkosh, Winnebago County, Wisconsin, and its administrative subunits.

Sec. 3-3-2 Duty to Maintain Records.

- (a) **Authority.** The Town Board of the Town of Oshkosh has the specific authority, powers and duties, pursuant to §19.21, 19.22, 19.23, 19.31, 19.33, 19.34, 19.35, 19.36, 19.37, 19.84, 19.85, 60.22, and 60.83, Wis. Stats, to manage and direct certain affairs related to Town public records.
- (b) **Public Record and Public Property Responsibilities.** All public records and public properties belonging to the Town of Oshkosh, including records and public properties of officers, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town shall be safely kept, properly maintained and carefully preserved by the legal custodian thereof when:
 - (1) These officers, employees or agents receive custody of the public records and public property from their predecessor or other persons.
 - (2) These public records and public properties are required by state law or by Town ordinance to be filed, deposited or kept in the offices of these officers, employees or agents.
 - (3) These public records and public properties are in lawful possession of these officers, employees or agents or the possession or control of which these officers, employees or agents may be lawfully entitled by state law or by Town.
- (c) **Responsibility of Office.** Except as provided under Section 3-3-7, each officer and employee of the Town 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.
- (d) **Responsibility Upon Expiration of Officer's Term.** Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Town Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

Sec. 3-3-3 Legal Custodian(s).

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

- (b) Unless otherwise prohibited by law, the Town Clerk or his/her designee shall act as legal custodian for all Town records, the Town Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Town Board, except that the Town Treasurer shall be the legal custodian for all records in his possession. In the event that the Town Clerk is not available, then the Town Clerk shall designate someone to act in it behalf as legal custodian.
- (c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.
- (e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subch. 11 of Ch. 19, Wis. Stats., and this Chapter. The designation of a legal custodian does not affect the powers and duties of an authority under this Section.

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 receipt 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 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 Town 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. No original public records of the Town shall be removed from the possession of the legal custodian.
- (f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:
 - (1) The cost of photocopying shall be twenty-five (25¢) per page fee in accordance with the Town Board's current fee schedule excluding accident reports. The Town may charge actual, necessary costs in duplicating or communicating requested records including facsimile transmissions. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
 - (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. The Town is not required to purchase or lease for any requesting person any equipment or facilities for photocopying, photographing or other copying.

- (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 costs thereof shall also be charged.
 - (5) There shall be not 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. The Town will determine the cost of locating a record by using the hourly rate in accordance with the Town Board's current fee schedule for employees involved in attempting to locate the record.
 - (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
 - (7) Elected and appointed officials of the Town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
 - (8) 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 § 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records or obtain copies of records, and the costs thereof. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Sections 3-3-4 through 3-3-6 of this Chapter. This Subsection does not apply to members of the Town Board.

Sec. 3-3-5 Access Procedures.

- (a) (1) 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.
- (2) A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under §19.37, Wis. Stats.
- (3) 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).
- (4) The legal custodian cannot request the name of the requesting person or the reasons for the need to access the public record except if the legal custodian keeps the public record at a private residence, or if the legal

custodian, for security reasons, believes identification is necessary and appropriate or except if federal law and regulations requires identification of the requesting person. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Town 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 §19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

Sec. 3-3-6 Limitations on Right to Access.

- (a) As provided by §19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
 - (3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and
 - (4) Pursuant to §905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
- (b) As provided by §43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.

- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Town 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 request 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 §19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
 - (3) Pursuant to §19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Town officer or employee, or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.
 - (4) Pursuant to §19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
 - (5) Pursuant to §19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of Town property, investing of Town funds or other Town business whenever competitive or bargaining reasons require nondisclosure.
 - (6) Pursuant to §19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
 - (7) Pursuant to §19.85(1)(g), Wis. Stats., communications between legal counsel for the Town and any officer, agent or employee of the Town, when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agent or employees is or is likely to become involved, or communications which are privileged under §905.03, Wis. Stats.
 - (8) Pursuant to §19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board and records of advice given by such ethics board on such requests.
- (d) If a record contains information that may be made public and information that may 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 Town Attorney prior to releasing any such record and shall follow the guidance of the Town Attorney when separating out the exempt material. If, in the judgment of the custodian and the Town Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

Sec. 3-3-7 Destruction of Records.

- (a) Town officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Chapter 442 of the Wisconsin Statutes but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to §16.61(3)(e), Wis. Stats., and then after such shorter period:
 - (1) Bank statements, deposit books, slips and stubs.
 - (2) Bonds and coupons after maturity.
 - (3) Canceled checks, duplicates and check stubs.
 - (4) License and permit applications, stubs and duplicates.
 - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (6) Receipt forms.
 - (7) Special assessment records.
 - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) Town officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to §16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two (2) years.
 - (1) Contracts and papers relating thereto;
 - (2) Excavation permits;
 - (3) Inspection records.
- (c) Town 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 §16.61(3)(e), Wis. Stats., and then after such a shorter period.
 - (1) Contracts and papers relating thereto.
 - (2) Correspondence and communications.
 - (3) Financial reports other than annual financial reports.
 - (4) Justice dockets.
 - (5) Oaths of office.
 - (6) Reports of boards, commissions, committees and officials duplicated in the Town Board 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.
- (d) 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 §19.21(4)(a), Wis. Stats.

Sec. 3-3-8 Preservation through Microfilm.

Any Town officer, or the director of any department or division of Town government may, subject to the approval of the Town Board, 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 §16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3-3-4 through 3-3-6 of this Chapter.

Sec. 3-3-9 Taped Records of Meetings.

The Town Board, any office, any special office, committee, any commission, any agency, any authority, any board or any other special government units of the Town of Oshkosh and their officers, their employees and their agents of the aforesaid may destroy any taped records of any public meeting of the aforesaid no sooner than ninety (90) days after the public meeting minutes have been approved by the appropriate government unit if the purpose of the tape recording was to make and maintain minutes of the public meeting.

Sec. 3-3-10 Income and Expense provided to Assessor for Assessment Purposes.

- (a) **ADOPTION.** This ordinance adopts by reference Wisconsin Statute Sec. §70.47 (7) (af). Income and expense information provided by property owner to an assessor for the purposes of establishing the valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under Sec. §19.35 (1) of Wis. Statutes.
- (b) **EXCEPTIONS.** An officer may make disclosure of such information under the following circumstances:
 1. The assessor has access to such information in the performance of his/her duties;
 2. The Board of Review may review such information when needed, in its opinion, to decide upon a contested assessment;
 3. Another person or body has the right to review such information due to the intimate relationship to the duties of an office or as set by law;

4. The officer is complying with a court order.
5. The person providing the income and expense information has contested the assessment level at either the Board of Review or by filing a claim for excessive assessment under Sec. §74.37, in which case the base records are open and public.

(c) **SEVERABILITY.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.