

## TITLE 3

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# Finance and Public Records

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# Title 3 ► Chapter 1

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## Finance

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### **Sec. 3-1-1      Preparation of Tax Roll and Tax Collections.**

- (a) **Content of Tax Roll.** Pursuant to Sec. 70.65, Wis. Stats., the Clerk-Treasurer shall prepare a tax roll and include the required contents as described in Chapter 70.65, Wis. Stats.
- (b) **Property Tax Collection.** All provisions of Chapter 74, Wis. Stats., in regards to property tax collection are adopted and by reference made a part of this Chapter with the same force and effect as though set out in full.

*State Law Reference:* Secs. 70.65 and 74.08, Wis. Stats.

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

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

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

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

- (a) **Departmental Estimates.** When requested by the Village Clerk-Treasurer, each officer, department and committee shall annually file with the Village Clerk-Treasurer an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Village Clerk-Treasurer and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.
- (b) **Consideration of Estimates.** The Village President, with the assistance of the Clerk-Treasurer, shall consider such departmental estimates in consultation with the department head and develop a budget amount for such department or activity.
- (c) **Form of Proposed Budget.** On or before November 1st each year, the Village President, with the assistance of the Clerk-Treasurer, shall prepare and submit to the Village Board a proposed budget presenting a financial plan for conducting the affairs of the Village for the ensuing calendar year. The budget shall include the following information:
  - (1) The actual expenditures of each department and activity for the expired portion of the current year, and last preceding fiscal year, and the estimated expense of conducting each department and activity of the Village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
  - (2) An itemization of all anticipated income of the Village from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year.

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- (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  - (4) All existing indebtedness of the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
  - (5) Such other information as may be required by the Board and by State law.
  - (d) **Budget Summary.** The Clerk-Treasurer shall prepare a summary of the budget and shall publish the notice required under Sec. 65.90(3)(a), Wis. Stats. Pursuant to Sec. 65.90(3)(b), Wis. Stats., the budget summary shall include the following:
    - (1) All expenditures, by major expenditure category.
    - (2) All revenues, by major revenue source.
    - (3) Any financing source and use not include under Subsections (d)(1) and (2) above.
    - (4) All beginning and year-end fund balances.
  - (e) **Copies of Budget.** The Village Clerk-Treasurer shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the Village Clerk-Treasurer during regular office hours.
  - (f) **Appropriation Resolution.** The Village President shall submit to the Board, at the time the annual budget is submitted, the draft of an appropriation resolution providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed resolution to the Board, it shall be deemed to have been regularly introduced therein. The Board shall hold a public hearing on the budget and the proposed appropriation resolution, as required by law. Following the public hearing, the proposed appropriation resolution may be changed or amended and shall take the same course as other ordinances.
  - (g) **Report and Hearing.**
    - (1) The Village Board shall make a report no later than the Board's first November meeting. The report shall include the estimated cost of improvements as well as the estimated cost of operating the various departments and all other costs, including interest charges, for which money will have to be raised by taxation during the following year.
    - (2) A summary of such budget and notice of the time and place where such budget and detail is available for public inspection and notice of the time and place for holding the public hearing thereon, shall be published in a newspaper of general circulation in the Village or legally posted 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 thereon, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the Village shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time. Following the public hearing, the proposed appropriation ordinance may be changed or amended and shall take the same course in the Village Board as other ordinances.

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

The amount of the tax to be levied or certified, the amounts of the various appropriations, and the purposes thereof shall not be changed after approval of the budget except upon the recommendation of the Village President and upon a two-thirds (2/3) vote of the entire membership of the Village Board. Notice of such transfer shall be given by publication within eight days thereafter in the official Village newspaper.

**Sec. 3-1-5 Village Funds to Be Spent in Accordance with Appropriation.**

No money shall be drawn from the treasury of the Village, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-4 of this Chapter. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

**Sec. 3-1-6 Fiscal Year.**

The calendar year shall be the fiscal year.

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

**Sec. 3-1-7 Public Depositories.**

- (a) **Public Depositories Designated.** The Village Board shall designate by resolution the public depository or depositories within this State in which Village of Boyd public funds shall be deposited, and when monies are deposited in such depositories in the name of the Village, Village officials and bondsmen shall not be liable for such losses as are defined by State law. The interest arising therefrom shall be paid into the Village treasury.
- (b) **Security and Collateralization of Depository Funds.**
  - (1) A maximum of Five Hundred Thousand Dollars (\$500,000.00) in Village funds may be deposited at any one time in any authorized depository, except as otherwise provided herein.

- (2) Pursuant to state law, designated public depositories may be required to pledge U.S. Treasury Notes or provide a surety bond or other security, including an irrevocable letter of credit issued by a federal home loan bank, state bank, national bank, federal or state savings bank, federal or state credit union, or federal or state savings and loan association, for any public deposits that exceed the amount of deposit insurance provided by an agency of the United States and the coverage provided under Sec. 34.08(2), Wis. Stats. When U.S. Treasury notes are pledged, such notes shall be equal in amount to any uninsured balance of the Village's deposit.

*State Law Reference:* Sections 34.07 and 62.12(7), Wis. Stats.

## **Sec. 3-1-8 Claims Against Village.**

- (c) **Bills and Other Financial Claims.** All bills and other financial claims against the Village of Boyd shall be immediately referred by the Village Clerk-Treasurer to the Committee of Finance. The Committee of Finance shall itemize and audit all claims and shall report on them at the next Board meeting. Payment of wages and salaries shall be by payroll, verified by the Clerk-Treasurer, and filed in time for payment on the regular pay days.
- (d) **Prepayment of Bills Policy.** It may be advantageous to the Village to pay some of the bills before they are formally approved by the Committee of Finance. The Village Clerk-Treasurer will make these determinations based on the following list of bills which may be paid prior to formal approval:
  - (1) Telephone bills.
  - (2) Utility bills.
  - (3) Wisconsin retirement contributions.
  - (4) Health/dental premiums.
  - (5) Union dues.
  - (6) Postage checks.
  - (7) Payroll related expenses such as federal and state tax deposits.
  - (8) Purchases which require prior payment and bills paid to take advantage of discount.
- (e) **Definition.** A "procurement" is the act of obtaining supplies, equipment, construction or services. "Procurements" include purchases, rentals, lease/purchases, rental purchases and contract for the services including personal and professional services.
- (f) **Procedure.**
  - (1) Purchase orders for amounts up to One Thousand Dollars (\$1,000.00) may be used to make purchases or repairs when signed and approved by either the Village Clerk-Treasurer or Director of Public Works. Purchase orders and repairs for amounts up to Two Thousand Five Hundred Dollars (\$2,500.00) may be used by the committee chairperson for purchases for the department under their control and supervision. In

the event of a natural disaster, hazardous spill, act of terrorism, or other emergency situation where it is not feasible or possible to call a special Village Board meeting, the Village President and the Emergency Response Coordinator are authorized to make commitments or expenditures of up to Twenty-five Thousand Dollars (\$25,000.00). All other purchases require Village Board approval prior to purchase.

- (2) Procurements of Two Thousand Five Hundred Dollars (\$2,500.00) to Twenty-five Thousand Dollars (\$25,000.00) shall be based on formal quotations from more than one vendor. If a quotation other than the lowest is recommended, supporting documentation should be provided given the deviation from the lowest bid concept.
- (3) Procurements of Two Thousand Five Hundred Dollars (\$2,500.00) or more and effecting streets, infrastructure, physical facilities, water system or wastewater treatment plant, shall be competitive sealed bids and shall be formally advertised. Bid documents shall be prepared by a licensed professional experienced in the field or discipline being bid.
- (4) Purchase of a particular item may be negotiated if it is in the best interest of the Village of Boyd. The Board will specify the item to be negotiated and approved the item before the purchase order is issued.

(g) **Awarding Bids and Contracts.**

- (1) The award will usually be made to the lowest acceptable bidder. Factors such as discounts, transportation costs, service, and life cycle cost will be taken into consideration.
- (2) Any or all bids may be rejected.
- (3) Bid bonds, performance bonds, sureties, etc. for contracts or bids at or above Twenty-five Thousand Dollars (\$25,000.00) may be used if deemed necessary or appropriate.
- (4) Appropriate certificates of insurance shall be on file with the Village Clerk-Treasurer at the Village Hall for individuals, companies and subcontractors performing services for the Village of Boyd. This shall include liability and workman compensation where appropriate. Liability coverage shall be a minimum of Two Hundred Fifty Thousand Dollars (\$250,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per accident with One Hundred Thousand Dollars (\$100,000.00) property damage. The Village of Boyd reserves the right to require higher coverage amounts.

*Cross-Reference:* Section 3-1-13.

*State Law Reference:* Secs. 61.51, 66.0607 and 66.0609, Wis. Stats.

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

The Village Clerk-Treasurer may invest any Village funds not immediately needed, pursuant to Sections 66.0603 and 219.05, Wis. Stats.

*State Law Reference:* Secs. 66.0603 and 219.05, Wis. Stats.

*Cross-Reference:* Section 3-1-19.



### **Sec. 3-1-10 Receiving Money; Receipt for Same.**

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

### **Sec. 3-1-11 Statement of Real Property Status.**

The Village Clerk-Treasurer, and his/her designees are authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water and sewer bills, current water and sewer bills, contemplated improvements, outstanding citations on building code violations and similar information. Any such information sought shall be provided to the person requesting it on said form. Requests for Statements of Real Property Status shall be made to the Village Clerk-Treasurer, or his/her designees a minimum of one (1) business day in advance. A fee as prescribed in Section 1-3-1 shall be charged for compiling this information. In providing this service, the Village of Boyd and its officials assume no liability for such service nor is any warranty intended or implied.

### **Sec. 3-1-12 Public Contracts and Competitive Bidding.**

- (a) **Definitions.** In this Section the following definitions shall be applicable:
  - (1) **Public Contract.** A contract for the construction, execution, repair, remodeling or improvement of any public work or building of a municipality or for the furnishing of materials or supplies.
  - (2) **Responsible Bidder.** A person or company who, in the judgment of the Village Board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.
- (b) **Public Works Projects.** Pursuant to Sec. 61.54, Wis. Stats., all contracts for public construction shall be let by the Village Board pursuant to Sec. 62.15, Wis. Stats.. The Village Board, or person or body designated by the Village Board, shall exercise the powers

and duties of a board of public works under Sec. 62.15, Wis. Stats. Sec. 62.15, Wis. Stats., shall apply to a village in the same manner as to a city.

(c) **Notice or Advertisement for Bids.**

(1) **Public Contracts of More Than \$25,000.00.** Except as provided in Subsections (d) and (e) below, the Village may not enter into a public contract unless the Village Board, or a Village official or employee designated by the Village Board, advertises for proposals to perform the terms of the public contract by publishing a Class 2 notice under Ch. 985, Wis. Stats. The Village Board may provide for additional means of advertising for bids. Per Subsection (a)(1) above, this advertising requirement does not apply to the purchase of equipment; it applies only to public works and the purchase of materials and/or supplies expected to cost more than Twenty-Five Thousand Dollars (\$25,000.00).

(2) **Public Contracts of \$5,000 – \$25,000.** The Village may enter into a public contract with an estimated cost of more than Five Thousand Dollars (\$5,000.00) but not more than Twenty-Five Thousand Dollars (\$25,000.00) only if the Village Board, or a Village official or other person designated by the Village Board, first gives a Class 1 notice under Ch. 985, Wis. Stats., before execution of that public contract. This notice requirement shall not apply to public construction if the project materials are donated or if the labor for such project is provided by volunteers.

(d) **Contracts to Lowest Responsible Bidder; Donated Improvements.** The Village Board shall let a public contract for which advertising for bids or proposals is required under Subsections (b) and (c) above to the lowest responsible bidder most advantageous to the Village of Boyd. Sec. 66.0901, Wis. Stats., applies to public contracts under this Section. Per Sec. 62.15(1e), Wis. Stats., construction by a private person of an improvement which is donated to the Village after completion of construction is exempt from municipal public construction bidding requirements.

(e) **Exceptions for Emergencies.** This Section and Sec. 62.15(1), Wis. Stats. 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 Village Board, that endangers the public health or welfare of the Village.

(f) **Construction by the Village.** Any class of public construction may be done directly by the Village without submitting the same for bids provided that the same is authorized by a vote of three-quarters (3/4) of all members-elect of the Village Board. This exemption only applies where Village employees perform the actual project work. Pursuant to Sec. 66.0901(11)(b), Wis. Stats., the Village shall not use Village employees on a project for which a private party is financially responsible.

*State Law Reference:* Secs. 61.54, 62.15, and 66.0901, Wis. Stats.

## Sec. 3-1-13 Bid Solicitation Procedures.

(a) **Definitions.**

- (1) **Verbal Quotation Form.** The Village solicits verbal quotations on items the Village purchases, which are less than Twenty-five Thousand Dollars (\$25,000.00). The results of the verbal quotations are recorded on a memorandum of verbal quotation form.
- (2) **Informal Quotation.** An informal quotation is a written request for quotation sent to vendors. The informal quotation is used for the purchase of goods and services in an amount less than Twenty-five Thousand Dollars (\$25,000.00).
- (3) **Formal Bid.** The formal bid procedure is used for purchasing goods and services in an amount of Twenty-five Thousand Dollars (\$25,000.00) and higher, and in some instances in amounts less than this amount. The formal bid procedure requires a legal public notice and contains detailed, written specifications regarding the goods and services to be purchased, and a number of specific conditions associated with the purchase.

(b) **Bid Solicitation.**

- (1) Competitive bids or quotations may be obtained before contracting to purchase articles, goods, wares, material services or merchandise which amount in bulk to more than One Thousand Dollars (\$1,000.00). Purchases up to One Thousand Dollars (\$1,000.00) may be made by either telephone quotations, informal written quotations or formal bid. Purchases from One Thousand Dollars (\$1,000.00) to Twenty-five Thousand Dollars (\$25,000.00) may be made by written quotation, telephone quotation or formal bid. Purchases of Twenty-five Thousand Dollars (\$25,000.00) and over, pursuant to Subsection (a) above, shall be made by formal bid unless exempted from it by action of the Village Board.
- (2) Verbal quotations for goods and services should be secured from at least two (2) qualified vendors, and the results of the quotations shall be recorded on the "Memorandum of Verbal Quotation" form and signed by the person receiving the quotations.
- (3) Informal requests for written quotations should be solicited from at least three (3) qualified bidders on the request for quotation form. All written requests for quotations shall be issued by the applicable department heads and returned to and analyzed by the applicable department heads. Informal requests for written quotations may also be solicited by telephone. Vendors shall be given a reasonable time to respond to the request for an informal, written quotation and shall be given clear, concise specifications and informal bidding instructions to facilitate competitive bidding.
- (4) When a formal bid is required or deemed to be in the best interests of the Village, the bidding procedure shall follow the legal requirements associated with a Class One

notice under State Statute and the procedures normally associated with the formal bid proposal.

- (5) The formal bid proposal will contain at least the following information:
  - a. The bid number.
  - b. A detailed description of the goods and services required, including enough information about the items or services required so that more than one (1) vendor can meet the specifications.
  - c. The time, date and place the bids will be opened.
  - d. The address to which the bids shall be mailed or delivered. Instructions to bidders shall include such information as delivery dates, transportation charges, proposal prices, conditions for guaranteeing the proposal, payment terms, right of rejection of proposals, right to reject merchandise, insurance requirements, alternative proposal consideration, tax information, and other appropriate information regarding the awarding and execution of the contract and contract considerations.
  - e. The bid proposal shall also include a section on special provisions including guarantees and service considerations, trade-in considerations, and other information relating to special conditions.
- (6) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the Village Clerk-Treasurer shall insure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.

*State Law Reference:* Sec. 66.0131, Wis. Stats.

### **Sec. 3-1-14    Accounts Receivable Billing Procedures.**

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

### **Sec. 3-1-15    Annual Audits.**

A firm of certified public accountants shall be employed each year by the Village, subject to the confirmation of the Village Board to conduct a detailed audit of the Village's financial

transactions and its books, and to assist the Village Clerk-Treasurer in the management of the Village's financial affairs, including the Village's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the financial records of the office of the Village Clerk-Treasurer, including the Treasurer's books, the Village's public utilities, Police Department records, and any other books of any boards, commission, officers or employees of the Village handling Village monies.

*State Law Reference:* Sec. 66.0605, Wis. Stats.

### **Sec. 3-1-16    Liability of the Village for Acts of Agents.**

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

### **Sec. 3-1-17    Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs.**

- (a) There shall be a fee as prescribed in Section 1-3-1 for processing checks made payable to the Village 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 Village that are placed with collection agencies.

### **Sec. 3-1-18    Delinquent Personal Property Taxes.**

- (a) Pursuant to the authority of Sec. 74.80(2), Wis. Stats., the Village hereby imposes a penalty of one-half percent (0.5%) per month or fraction of a month, in addition to the interest prescribed by Sec. 74.80(1), Wis. Stats., on all overdue or delinquent personal property taxes retained for collection by the Village or eventually charged back to the Village by the County for purposes of collection under Sec. 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. 3-1-19 Policy for Public Deposits and Investments.**

- (a) **Purpose.** Cash and investments generally represent the largest asset on the Village's balance sheet, and the Village frequently has cash available for short-term, intermediate and long-term investments. Therefore, it is important that the Village establish a policy to ensure continuous prudent investment of available Village funds. It is in the interest of the Village of Boyd to adopt a policy to insure continuous prudent deposits and investments of available Village funds. The Village Board of the Village of Boyd establishes the following policies in the public interest for the deposit and investment of available Village funds.
- (b) **Public Depositories.**
- (1) **Depositories.** The Village 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 Village Clerk-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 Sec. 66.0603(1m), Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under Sec. 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 Village Board.
  - (3) **Deposits.** The Village Clerk-Treasurer shall deposit public monies in the name of the Village of Boyd in such public depositories designated by the Village Board and subject to the limitations hereinabove set forth.
  - (4) **Withdrawals.** Withdrawals or disbursements by the Village Clerk-Treasurer of monies deposited in a public depository shall be made as provided by Sec. 66.0607, Wis. Stats. The Village Clerk-Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money transfer techniques as set forth in Sec. 66.0607, Wis. Stats.
- (c) **Investments.**
- (1) **Management.** Subject to the provisions of this policy, the Village Clerk-Treasurer shall have control of and discretion in the investment of all Village funds that are not immediately needed and are available for investment.
  - (2) **Intent.** It is the intent of the Village Board that the Village Clerk-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 Village 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 Village Clerk-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.
- (d) **Investment Factors.** The Village Clerk-Treasurer is authorized and directed to utilize investment options as set forth within these guidelines, and that the Village Clerk-Treasurer shall take into consideration the following factors which are listed in order of priority to the investment decision:
  - (1) **Certificates of Deposit.** Village funds may be invested in certificates of deposit 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 Village by resolution or ordinance of the Village Board.
  - (2) **Government Bonds and Securities.** Village 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 Village's name at any designated public depository or approved financial institution.
  - (3) **Government Investment Pool.** Village funds may be invested in the Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.
  - (4) **Repurchase Agreements.** Village 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 Village's name at any designated public depository or approved financial institution.

- (5) **Wisconsin Investment Trust.** Village funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.
  - (6) **Savings Deposit.** Village funds may be temporarily invested in savings deposits.
  - (7) **Securities.** The Village Clerk-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.
- (e) **Safety.**
- (1) In order to safeguard investments and deposits, the Village shall acquire of each public depository its annual financial statements and evaluate such statements as to the financial soundness of the depository. Also to be reviewed are other pertinent financial information filed with regulatory agencies.
  - (2) The Village shall require, when investing in repurchase agreements, that collateral be pledged by the depository in an amount equal to or greater than the amount of the repurchase agreements the Village has with such depository. In excess of FDIC coverage, the collateral shall be direct obligations of the United States, or of its agencies if the payment of principal and interest is guaranteed by the federal government, or obligations of the State of Wisconsin, or of the Village of Boyd. Evidence of such collateral shall be provided by the depository.
  - (3) Consideration shall also be given to the total amount of existing Village funds which are already in such depository and/or the capacity of the depository to handle the size of the deposit or investment with consideration of federal depository insurance and State of Wisconsin Guarantee Fund requirements.
- (f) **Liquidity.**
- (1) The maturity of any investment shall be determined by analyzing the following factors:
    - a. Immediate cash requirements.
    - b. Projected expenditures.
    - c. Available funds on hand.
    - d. Maturing investments.
    - e. Anticipated revenues.
  - (2) Investments shall not extend beyond any recognized unfunded cash needs of the Village. Major consideration of maturity dates should be given to requirements of the payroll, debt service, and the bi-monthly bills and claims.
- (g) **Yield.**
- (1) Yield shall be the final determining factor of the investment decision.
  - (2) Bids shall be required of all investments that exceed both One Hundred Thousand Dollars (\$100,000) and a thirty (30) day or longer maturity date. A minimum of three (3) bids from the Village's public depository list shall be acquired. Exceptions to the bid process include only the purchase of obligations of the U.S. Treasury and deposits



in the Wisconsin Local Government Investment Pool, which shall be registered in the Village's name.

(h) **Miscellaneous.**

- (1) **Liability.** Notwithstanding any other provision of law, the Village Clerk-Treasurer who deposits public monies in any public depository, in compliance with Sec. 34.05, Wis. Stats., is, under the provisions of Sec. 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 Sec. 34.01(2), Wis. Stats.
- (2) **Definitions.** Words or phrases shall, insofar as applicable, have the meaning set forth in Sec. 34.01, Wis. Stats., as amended.
- (3) **Conflicts.** This Section is enacted in accordance with the provisions of Ch. 34 and Sec. 66.0603, Wis. Stats. In case of conflict, the state laws shall prevail.

*Cross-Reference:* Section 3-1-7.

*State Law Reference:* Ch. 34 and Sec. 66.0603, Wis. Stats.

## **Sec. 3-1-20     Payment of Engineering, Attorney and Other Fees by Benefitted Parties.**

- (a) **Purpose.** The Village Board of the Village of Boyd has authorized at various times the using of the Village of Boyd's professional staff or consultants to help various private parties resolve issues involving street and highway access questions, property line disputes, non-zoning or non-land division matters concerning property and other matters of concern to property owners and residents in the Village of Boyd. While it may be in the public interest to assist property owners and residents with such matters, it is not equitable for the other taxpayers in the Village to have to absorb these professional fees where the fees were incurred to benefit specific land owners or private parties.
- (b) **Fees of Village Professionals Charged Back.** Whenever either the Village Board, Village Clerk-Treasurer or other Village official has authorized a property owner in the Village of Boyd or private party to contact the Village Attorney, Village Engineer or any other of the Village's professional staff or the Village Board, Village Clerk-Treasurer, or other Village official contacts said Village Attorney, Village Engineer or any of the Village's professional staff or a property owner contacts the Village Attorney, Village Engineer or any other of the Village's professional staff, if said contact results in a charge to the Village of Boyd for that professional's time and services and said service is not a service supplied to the Village of Boyd as a whole, then and in that event the Village Clerk-Treasurer shall, pursuant to the provisions of Sec. 66.0627, Wis. Stats., charge that service to said property owner for the fees incurred by the Village.

(c) **Property Owner Allowed Time to Pay.**

- (1) The Village Clerk-Treasurer shall give each property owner or private party billed for professional or current services as provided for herein a period of time not to exceed thirty (30) days to pay and thereafter if that charge remains unpaid, the Village Clerk-Treasurer shall charge that delinquent bill against the current or next tax roll as a special charge or delinquent tax against the property as provided by law. In the event the statement rendered to the property owner or the time given for the property owner to pay is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.
- (2) In the alternative, the Village may require pre-payment for such professional assistance.
- (3) Applicants for a land division under Title 14 of this Code of Ordinances shall comply with the escrow account requirements therein regarding the cost of the Village's professionals and consultants involved in reviews and inspections associated with the land division.

(d) **Fees Charged for Permits Issued to Municipalities, Agencies or Other Governmental Organizations.** Whenever it is requested that the Village of Boyd grant approvals to any other municipality, agency or other governmental body and that permit process requires the assistance of the professional staff of the Village, those fees shall be charged back to the municipality, agency or governmental body seeking the permit.

## **Sec. 3-1-21 Alternate Forms of Sworn Testimony at Board of Review Hearings.**

- (a) **Statement of Purpose.** Sec. 70.47(8), Wis. Stats., authorizes the Board of Review to consider requests from a property owner, or the property owner's representative, to appear before the Board of Review under oath by telephone or to submit a written statement under oath to the Board of Review.
- (b) **Procedures.**
- (1) In order for a property owner, or property owner's representative, to submit a request to testify by telephone or submit a sworn written statement, he/she must first comply with the following steps:
    - a. The legal requirement to provide Notice of Intent to Appear at the Board of Review shall be satisfied; and
    - b. An Objection Form for Real Property Assessment (PA-115A) shall be completed and submitted to the Board of Review as required by the Wisconsin Statutes.
  - (2) After both requirements prescribed under Subsection (b)(1)a-b above have been satisfied, a Request to Testify by Telephone or to Submit a Sworn Written Statement at Board of Review (PA-814) may be submitted to the Village Clerk. Such request(s)

must be submitted in time to be considered by the Board of Review at the first meeting of such Board.

- (c) **Criteria To Be Considered.** The Board of Review may consider any or all of the following factors when a determination whether to grant or deny the request:
- (1) The requester's stated reason(s) for the request as stated on Form PA-814.
  - (2) Fairness to the parties involved.
  - (3) Ability of the requester to procure in person oral testimony and any due diligence exhibited by the requester in procuring the testimony.
  - (4) Ability to cross-examine the person providing the testimony.
  - (5) The Board of Review's technical capability to honor the request.
  - (6) Any other factors which the Board of Review deems pertinent to deciding the request.
- (d) **Disabled or Ill Parties.** The Board of Review shall hear by telephone, upon oath, all disabled or ill persons who present to the Board of Review a letter from a physician, osteopath, physician assistant, or advanced practice nurse prescriber that confirms their illness or disability.

*State Law Reference:* Sec. 70.47(8), Wis. Stats.



## Title 3 ► Chapter 2

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# Special Assessments

<b>3-2-1</b>	Village Board May Levy Special Assessments
<b>3-2-2</b>	Resolutions and Report Required
<b>3-2-3</b>	Costs That May Be Paid by Special Assessment
<b>3-2-4</b>	Exemptions; Deductions
<b>3-2-5</b>	Notice of Proposed or Approved Project
<b>3-2-6</b>	Board Actions After Hearing
<b>3-2-7</b>	Board's Power to Amend, Cancel or Confirm Special Assessment
<b>3-2-8</b>	Where Cost of Improvement is Less Than Assessment
<b>3-2-9</b>	Appealed Assessments Payable When Due
<b>3-2-10</b>	Special Assessment a Lien on Property
<b>3-2-11</b>	Special Charges Permissible
<b>3-2-12</b>	Miscellaneous Provisions
<b>3-2-13</b>	Special Assessment B Bonds
<b>3-2-14</b>	Specific Special Assessment and Public Works Improvements Policies

### **Sec. 3-2-1 Village Board May Levy Special Assessments.**

- (a) The Village of Boyd, by resolution of its Village Board, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement.
- (b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Village Board.

*State Law Reference:* Secs. 66.0701 and 66.0703, Wis. Stats.

### **Sec. 3-2-2 Resolutions and Report Required.**

- (a) Prior to making any such special assessments, the Village Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose.

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Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under Section 3-2-5 of this Chapter and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

- (b) The report required by Subsection (a) shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) An estimate of the entire cost of the proposed work or improvement.
  - (3) An estimate, as to each parcel of property affected, of:
    - a. The assessment of benefits to be levied.
    - b. The damages to be awarded for property taken or damaged.
    - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
  - (4) A statement that the property against which the assessments are proposed is benefitted, where the work or improvements constitute an exercise of the police power. In such case the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
  - (5) A copy of the report when completed shall be filed with the Village Clerk-Treasurer for public inspection.
- (c) When the Village Board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Sec. 66.0703, Wis. Stats. and Subsections (a) and (b) above, shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

**Sec. 3-2-3 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 Village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Village Board.

**Sec. 3-2-4 Exemptions; Deductions.**

If any property deemed benefitted shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the Village. Generally, all abutting property owners shall pay special assessments.

### **Sec. 3-2-5 Notice of Proposed or Approved Project.**

On the completion and filing of the report required in Section 3-2-2(b)(5) of this Chapter, the Village Clerk-Treasurer shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Village Board or committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be given either by publication in the official Village newspaper or posted in not less than three (3) public places within the Village and a copy of said notice shall be mailed to each interested person whose post office address is known. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or posting of said notice.

### **Sec. 3-2-6 Board Actions After Hearing.**

- (a) After the hearing, the Village Board may approve, disapprove, modify or 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 be made against any property and an award of compensation or damage be made in favor of the property, the Village Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- (c)
  - (1) If the work or improvement has not been previously authorized or approved, the Village Board shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
  - (2) If the work or improvement has been approved by the Village Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Village Board shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The Village Clerk-Treasurer shall publish the final resolutions as required in Section 3-2-5 of this Chapter.
- (e) After the publication of the final resolution, any work or improvement provided for and not yet authorized, shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Sec. 66.0703(12), Wis. Stats., or any other applicable provision of law.

### **Sec. 3-2-7 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

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reason, or if the Village Board determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5 to amend, cancel or confirm any prior assessment and notice of this amending, canceling or confirming be given by the Village Clerk-Treasurer as provided in Section 3-2-6 of this Chapter.

**Sec. 3-2-8 Where Cost of Improvement is Less Than Assessment.**

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

**Sec. 3-2-9 Appealed Assessments Payable When Due.**

Pursuant to Sec. 66.0703, Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable and upon default in payment any such appeal shall be dismissed.

**Sec. 3-2-10 Special Assessment a Lien on Property.**

Pursuant to Sec. 66.0703, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the Village. The Village Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Village Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

**Sec. 3-2-11 Special Charges Permissible.**

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by the Village Board by allocating all or part of the cost of the property served. Such may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care or removal. The provision for notice of such charges shall be optional with the Village Board except that in the case of street, sidewalk, curb or gutter repair, twenty (20) days notice published in the Village newspaper, or by posting such notice in three (3) places in the Village and a copy of such notice mailed to every interested person whose



post office address is known at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Village Board as to whether the service in question shall be performed. Amounts less than One Hundred Dollars (\$100.00) shall be paid in one (1) installment.

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

*State Law Reference:* Sec. 66.0627, Wis. Stats.

### **Sec. 3-2-12    Miscellaneous Provisions.**

- (a) If any assessment or charge levied under this Chapter is invalid because such statutes are found to be unconstitutional, the Village Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Village Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property 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 Village 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.
- (d) If any affected property owner objects to the Village performing or contracting the work or improvement, said property owner(s) shall be entitled to contract individually the required work or improvement as long as it is performed in a reasonable and workmanlike manner. Upon prior approval by the Village, the Village agrees to reimburse the property owner(s) for a portion of said bill at a rate to be determined by the Village Board, annually.

### **Sec. 3-2-13    Special Assessment B Bonds.**

As an alternative to any other financing method, the Village Board may provide for the payment of the initial cost of any public improvement from the proceeds of special assessment "B" bonds issued under Sec. 66.0713(4), Wis. Stats. Special assessments to retire such bonds and pay the interest thereon shall be levied under Sec. 66.0713(4), Wis. Stats., payable in such installments at a rate to be determined by the Board based upon borrowed money rates at the time of the special assessment.

## **Sec. 3-2-14 Specific Special Assessments and Public Works Improvements Policies.**

- (a) **Legislative Intent.** This Section is designed to provide for the health, safety, welfare and convenience of the public, and is enacted to provide a uniform method of making special assessments for public works, improvements and services in the Village of Boyd where such work, improvement or service constitutes an exercise of the police power of the Village of Boyd. It seeks to ensure that assessments are made against only those properties which receive special benefits as a result of the public work, improvement or service, and to ensure that assessments are made against only those properties which receive special benefits as a result of the public work, improvement or service, and to ensure that assessments are made in a fair, equitable and nondiscriminating manner.
- (b) **Definitions.** For purposes of this Section:
  - (1) **Committee.** The Utilities, Streets and Public Works Committee or such other committee of the Village Board as the Village Board shall by resolution designate.
  - (2) **Improvement.** Any public work, improvement, repair or service in the Village of Boyd pursuant to the exercise of the police power of the Village of Boyd, and shall include improvement, repair, or service regarding the streets, curbs and gutters, sidewalks or any public facility or service provided by the Village of Boyd, which is done pursuant to the Village's police power but shall not include removal or repair of sidewalks pursuant to Title 6, Chapter 2 of the Village of Boyd Code of Ordinances.
- (c) **Scope.** In addition to other methods provided by law, special assessments for any public improvement or current service may be levied in accordance with this Section.
- (d) **Benefit Required.**
  - (1) No special assessments for an improvement shall be levied against property unless it is found that special benefits have accrued to the property as a result of the improvement or the special assessment is levied pursuant to the Village's police powers.
  - (2) The Committee shall investigate each proposed or contemplated special assessment and, based upon the results of that investigation, shall make a written finding as to which properties, if any, have been or will be benefited by the improvement for the payment of which the assessment is intended.
  - (3) The Committee's investigation shall include a viewing by the Committee of each property or parcel against which the assessment is proposed or contemplated, consultation with engineers or other experts where practicable, and such other factors and considerations as the Committee in its discretion deems appropriate.
  - (4) Unless special assessments are to be levied under general police powers, the Committee shall state the reasons and factual basis for its finding of benefit or no benefit. No finding of benefit shall be made unless there exists a reasonable basis for such a finding.

(e) **Sidewalks, Curb and Gutters.**

- (1) Special assessments for sidewalks, curb and gutter improvements on straight streets shall be made based upon the relative amounts of front footage of each property which abuts on the street which is to be or has been improved. In the event that all or part of the improvement is on a curving street or cul-de-sac, the entire assessment shall be made based upon the square footage of the properties which abut on the street to be improved.
- (2) No property other than those abutting on the street or streets on which the sidewalks, curb or gutter are improved or are to be improved may be assessed for part of the cost of such improvements.
- (3) Subsection (e)(1) shall not apply to corner lots. Special assessments for corner lots shall be made based on the frontage on the long side and one-half (1/2) of the frontage on the shorter side.

(f) **Sanitary Sewer; Water Mains.**

- (1) Special assessments for sanitary sewer or water main improvements shall be made upon the square footage of the properties benefited by the improvement.
- (2) No property other than abutting property may be assessed for sanitary sewer or water main improvements unless the committee finds after consultation with an engineer or other qualified expert, that such property has received special benefit as a result of the improvement.
- (3) In the event that a corner property has previously been assessed for the installation cost of a sanitary sewer or other water main in one street upon which it abuts, the property shall be entitled to such deduction or exemption as the Village Board or its designee determines to be just and reasonable under the circumstances of each, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which the corner lot abuts. In no event shall the first eight thousand seven hundred twelve (8,712) square feet of any corner lot be assessed for sanitary sewer or water main laid in the second street.

(g) **Other Improvements.** Special assessments for other improvements may be made on a front footage basis, on a square footage basis, or on some combination thereof, provided the following occur:

- (1) All assessments for a particular type of improvement are made in a consistent manner, and are fairly, equitably, and consistently applied.
- (2) No property other than abutting property may be assessed for a given improvement unless the Committee finds, after consultation with an engineer or other qualified expert, that such property has received special benefit as a result of the improvement.
- (3) Deductions or exemptions for corner property may be made on a case-by-case basis in a manner similar to that for sanitary sewer and water mains under Subsection (f)(3) above.
- (4) In the event that non-abutting property is assessed for a particular improvement, the special assessment shall be made, at least in part, on a square footage basis. A sliding

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scale of assessment which reduces the amount levied as the distance from the improvement increases or the benefit conferred by the improvement decreases may be utilized if reasonable and appropriate.

- (h) **Procedures.** The Village of Boyd will follow the procedures outlined in this Chapter and Ch. 66, Wis. Stats., for special assessments made under this Section.

## Title 3 ► Chapter 3

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### Public Records

<b>3-3-1</b>	Definitions
<b>3-3-2</b>	Duty to Maintain Records
<b>3-3-3</b>	Legal Custodian(s)
<b>3-3-4</b>	Public Access to Records
<b>3-3-5</b>	Access Procedures
<b>3-3-6</b>	Limitations on Right to Access
<b>3-3-7</b>	Retention and Destruction of Records
<b>3-3-8</b>	Retention and Destruction of Municipal Records
<b>3-3-9</b>	Electronic Records Preservation

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

- (a) **Authority.** Any of the following Village of Boyd entities having custody of a Village 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 Village designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any Village 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) **Public Record.** "Public records are:
  - (1) All property and things received from the (municipal) officer's predecessor or other persons and required by law to be filed, deposited, or kept in the officer's office, or which are in the lawful possession or control of the officer or the officer's deputies [Sec. 19.21(1), Wis. Stats.];
  - (2) Any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by an authority [Sec. 19.32(2), Wis. Stats.];
  - (3) All books, papers, maps, photographs, films, recordings, optical discs, electronically formatted documents, or other documentary materials, regardless of physical form or

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- characteristics, made or received by any state agency or its officers or employees in connection with the transaction of public business [Sec. 16.61(2)(b), Wis. Stats.]; and
- (4) Includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), CDs, DVDs, flash drives, emails, and computer printouts. "Public 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/her office or employment/duties with the municipality; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of the authority other than a public library which are available for sale, or which are available for inspection at a public library.
- (d) **Direct Cost.** The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) **Actual Cost.** The total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

*State Law Reference:* Secs. 16.61 and 19.21, Wis. Stats.

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

- (a) Except as provided under Sections 3-3-7, 3-3-9, each officer and employee of the Village shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Village Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Village 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).**

- (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 Village Clerk-Treasurer to act as the legal custodian.

- (b) Unless provided in Subsection (c), the Village Clerk-Treasurer or the Village Clerk-Treasurer's designee shall act as legal custodian for the Village and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Village Board. The following offices or authorities shall have as a legal custodian of records the individual so named.

<b>Authority</b>	<b>Designated Legal Custodian</b>
General Village Records (including Board Records)	Village Clerk-Treasurer
Department of Public Works	Director of Public Works
Police Department	Chief of Police
Fire Department	Fire Chief

- (c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the Village Clerk-Treasurer.
- (e) The Village 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 Sec. 19.35(1), Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to Village 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¢) to defray the cost of copying records.

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- (1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
  - (2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and video-tapes, shall be charged.
  - (3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - (4) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.
  - (5) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
  - (6) Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
  - (7) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Village Board.

**Sec. 3-3-5 Access Procedures.**

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.



- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

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

- (a) **Specific Records Exempt From Inspection.** As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection and/or copying under this Chapter:
  - (1) **Records Specifically Exempted by State or Federal Law.** Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law.
  - (2) **Investigative Records.** 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 Data.** Computer programs, as defined in Sec. 16.971(4)(c), Wis. Stats., is not subject to examination or copying, but the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection. [Note: The limits to access to computer programs and electronic files are clarified in *WIREData, Inc. v. Village of Sussex*, 2008 WI 69, 310 Wis.2d 397, 751 N.W.2d 736, 05-1473].
  - (4) **Trade Secrets.** Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. Per Sec. 134.90(1)(c), Wis. Stats., "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.

- (5) ***Identities of Applicants for Public Positions.*** The identity of an applicant for a public position other than a local public office may be withheld upon the request of such applicant unless such applicant is a final candidate for that position as defined in Sec. 19.36(7), Wis. Stats.
- (6) ***Identities of Law Enforcement Informants.*** If a law enforcement agency receives a request to inspect or copy a record that contains information including, but not limited to, a name, address, telephone number, voice recording or handwriting sample which, if disclosed, would identify an informant, the authority shall delete the portion of the record in which the information is contained or, if no portion of the record can be inspected or copied without identifying the informant, shall withhold the record. Sec. 19.36(8), Wis. Stats., provides, however, that the legal custodian of the record may release such information after making a determination that the public interest in allowing a person to inspect or copy such identifying information outweighs the harm done to the public interest by providing such access. "Informant" and "law enforcement agency" are defined in Sec. 19.36(8), Wis. Stats.
- (7) ***Employee Personnel Records.*** Unless access is specifically or authorized by statute, access is not permitted to personnel records containing the following information, except to the employee or the employee's representative to the extent required under Sec. 103.13, Wis. Stats., or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain under Ch. 111 or pursuant to a collective bargaining agreement under Ch. 111, Wis. Stats.:
  - a. Information maintained, prepared, or provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an employee, unless the employee authorizes the authority to provide access to such information.
  - b. Information relating to the current investigation of a possible criminal offense or possible misconduct connected with employment by a municipal employee prior to disposition of the investigation.
  - c. Information pertaining to an employee's employment examination, except an examination score if access to that score is not otherwise prohibited.
  - d. Information relating to one (1) or more specific employees that is used by the employer for staff management planning, including performance evaluations, judgments, or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference, or other comments or ratings relating to employees.
- (8) ***Records Containing Personal Information of an Individual Holding a Local or State Public Office.*** Unless access is specifically authorized or required by state statute, an authority shall not provide access to records, except to an individual to the extent required under Sec. 103.13, Wis. Stats., containing information maintained, prepared, or provided by an employer concerning the home address, home electronic mail

address, home telephone number, or social security number of an individual who holds a local or state public office, unless the individual authorizes the authority to provide access to such information. This limitation does not apply to the home address of an individual who, as a condition of employment, is required to reside in a specified location.

- (9) ***Personally Identifiable Information Relating to Certain Employees.*** Unless access is specifically authorized or required by statute, an authority shall not provide access to a public record prepared or provided by an employer performing work on a project to which Sections 66.0903, 66.0904, 103.49, or 103.50, Wis. Stats., applies, or on which the employer is otherwise required to pay prevailing wages, if that record contains the name or otherwise personally identifiable information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information. "Personally identifiable information" does not include an employee's work classification, hours of work, or wages or benefit payments received for work on such a project.
- (10) ***Financially Identifying Information.*** An authority shall not provide access to personally identifiable data that contains an individual's account or customer number with a financial institution including credit card numbers, debit card numbers, checking account numbers, or draft account numbers, unless specifically required by law.
- (b) **Public Library Circulation Records.** As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Chapter.
- (c) **Assessor's Income and Expense Records.** Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to Sec. 70.47(7)(af), Wis. Stats., or any successor statute, 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 the information may be revealed to and used by persons: in the discharge 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 by the Board of Review in performance of its official duties); or pursuant to the order of a court. Income and expense information provided to the Assessor under Sec. 70.47(7)(af), Wis. Stats., unless a court determines that it is inaccurate, is, per Sec. 70.47(7)(af), Wis. Stats., not subject to the right of insertion and copying under Sec. 19.35(1), Wis. Stats.
- (d) **Municipal Utility Customer Information.**
  - (1) ***Restrictions on Access to Customer Information; Exeptions.*** Pursuant to Sec. 196.137(2), Wis. Stats., a municipal utility shall not release customer information to any person except with the prior consent of the customer. Customer information is not subject to inspection or copying under Sec. 19.35, Wis. Stats. The following are exceptions to this prohibition where municipal utility customer information may be released to the following parties without prior consent from the utility customer:

- a. Agents, vendors, partners, and affiliates of the municipal utility that are engaged to perform any services or functions for or on behalf of the utility. This may include other municipal departments;
  - b. Transmission and distribution utilities and operators within whose geographic service territory the customer is located;
  - c. The Wisconsin Public Service Commission (PSC) or any person whom the PSC authorizes by order or rule to receive customer information;
  - d. An owner of a rental dwelling unit to whom the municipal utility provides notice of past due charges per Sec. 66.0809(5), Wis. Stats.;
  - e. A municipal security purchaser or investor in order to comply with security disclosure obligations;
  - f. A title agent, insurer, lender, mortgage broker or attorney in connection with the preparation of real estate closing documents;
  - g. A lender or prospective purchaser in connection with the foreclosure of a property;
  - h. An owner of real property provided with municipal utility service or the owner's designated agent; or
  - i. Any person who is otherwise authorized by law to receive customer information.
- (2) **Definitions.** The following definitions shall be applicable in this Subsection:
- a. "Customer information" means any information received from municipal utility customers which serves to identify customers individually by usage or account status.
  - b. "Municipal utility" has the meaning given in Sec. 196.377(2)(a)3, Wis. Stats.
- (e) **Miscellaneous Grounds for Records Access Denial.** 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 municipal attorney, may deny the request, in whole or part, only if the legal custodian determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. In addition to specific nondisclosure records specified in this Section, general examples of matters involving certain official closed meeting minutes or sensitive internal municipal investigative matters for which disclosure may be refused include, but are not limited to, the following:
- (1) **Quasi-Judicial Hearing Deliberations.** Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of deliberations concerning a case which was the subject of any judicial or quasi-judicial hearing or trial before that governmental body.
  - (2) **Employment Deliberations Records.** Pursuant to Sec. 19.85(1)(b), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation determination, performance or discipline of any municipal officer or employee, or the investigation of charges against a municipal officer or employee, unless such officer or employee consents to such disclosure.

- (3) **Crime Prevention Strategies.** Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
- (4) **Records Pertaining to Competitive or Bargaining Matters.** Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of property for the municipality, investing of municipal funds, or other municipal business whenever competitive or bargaining reasons require nondisclosure.
- (5) **Sensitive Personal Information.** Pursuant to Sec. 19.85(1)(f), Wis. Stats., medical, financial, social or personal histories or disciplinary data for 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.
- (6) **Privileged Communications With Legal Counsel.** Pursuant to Sec. 19.85(1)(g), Wis. Stats., records of current deliberations which involve communications between legal counsel for the municipality and any official, officer, agent or employee of the municipality when legal advice being rendered concerning strategy with respect to current litigation in which the municipality or any of its officials, officers, agents or employees is or is likely to become involved, or communications with are privileged under Sec. 905.03, Wis. Stats.
- (7) **Ethics Opinions.** Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.
- (8) **Certain Acts by Businesses.** Pursuant to Sec. 19.85(1)(i), Wis. Stats., records of deliberations considering any or all matters related to acts by businesses under Sec. 560.15, Wis. Stats., which, if disclosed to the public, could adversely affect the business, its employees or former employees.
- (f) **Redacting.** If a municipal 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 legal custodian of the record shall confer with the municipal attorney prior to releasing any such record and shall follow the guidance of the municipal attorney when separating out the exempt material. If, in the judgment of the legal custodian and the municipal 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 Retention and Destruction of Records.**

- (a) **Historical Records.** Under Sec. 19.21(4)(a), Wis. Stats., municipalities must notify the State Historical Society of Wisconsin (SHSW) prior to destroying records. However, the SHSW has waived the required sixty (60) days notice for any record marked "W" (waived

notice). SHSW must be notified prior to destruction of a record marked "N" (non-waived). Notice is also required for any record not listed in this Section.

- (b) **Microfilming or Optical Imaging of Records.** Local units of government may keep and preserve public records through the use of microfilm providing the microfilm or optical imaging meets the applicable standards in Sec. 16.612, Wis. Stats. Retention periods and estimated costs and benefits of converting records between media should be considered. After verification, paper records converted to microfilm or optical imaging should be destroyed. The retention periods identified in this Section apply to records in any media.
- (c) **Destruction After Request for Inspection.** No requested records may be destroyed until after the request is granted or sixty (60) days after the request is denied. If an action is commenced under Sec. 19.37, Wis. Stats., the requested record may not be destroyed until after a court order is issued and all appeals have been completed. [See Sec. 19.35(5), Wis. Stats.]
- (d) **Destruction Pending Litigation.** No record subject to pending litigation shall be destroyed until the litigation is resolved.
- (e) **Review and Approval By Public Records and Forms Board.** This Chapter and the retention periods of less than seven (7) years have been reviewed and approved by the Public Records and Forms Board.
- (f) **Legend.** The following terms shall be applicable in Sections 3-3-7 and 3-3-8:
  - (1) **Records Description.** Provides a brief description of the records. Group specific items such as forms into logical groups that have the same function or purpose.
  - (2) **Period of Retention.** Refers to the time that the identified records must be kept until destruction.
    - CR** Stands for creation which usually refers to receipt or creation of the record.
    - FIS** Stands for current fiscal year and the additional amount of time as indicated.
    - EVT** Stands for event and refers to an occurrence that starts the retention "clock ticking." Close of contract, termination of employees, and disposition of a case are common events.
    - P** Stands for permanent retention.
  - (3) **Time.** Is expressed in years unless specifically identified as month or day.
  - (4) **Authority.** Refers to any specific statutory, administrative rule, or specific regulation that determines retention of the record. In most cases this will be blank because units of government have discretion to establish a time period.
  - (5) **SHSW Notify.** Refers to whether or not the State Historical Society of Wisconsin has waived the required statutory notification prior to destruction of records.

- W** Means records are not historical and the required notification is waived.
- N** Means the records may have secondary historical value and therefore SHSW notification is required on a case-by-case basis prior to destruction.
- N/A** Means not applicable and refers to those circumstances where a local unit of government is retaining a record permanently.

## **Sec. 3-3-8 Retention and Destruction of Municipal Records.**

(a) **Purpose; Authority.**

- (1) The purpose of this Section is to provide Village of Boyd officers and employees with the authority to destroy certain obsolete public records retained and in the possession of the Village of Boyd in conformance with the *Wisconsin Municipal Records Schedule*, approved on August 27, 2018 by the State of Wisconsin Public Records Board, and which will expire on August 27, 2028.
- (2) In instances when a municipal record is not addressed in the *Wisconsin Municipal Records Schedule*, the Village may destroy certain obsolete municipal records in conformance with the Wisconsin Public Records Board's *General Records Schedules*.
- (3) This Section establishes the duties and provides the authority of Village officers and employees to administer, manage and destroy obsolete public records, including electronic records, in the possession of the Village of Boyd, pursuant to and in conformance with the *Wisconsin Municipal Records Schedule* and the State of Wisconsin's *General Records Schedules*.

(b) **Statutory Authority.** The Village has authority under Sec. 19.21, Wis. Stats., to manage and destroy obsolete public records in the possession of the Village.

(c) **Adoption of Records Schedules.** Thee *Wisconsin Municipal Records Schedule* and the state *General Records Schedules*, both promulgated by the State of Wisconsin Public Records Board, are hereby adopted by reference and made part of this Code of Ordinances as if fully set forth herein. Acts required or authorized to be performed or prohibited by such Schedules are required, authorized or prohibited by this Section. Any future amendments, revisions or modifications of such Schedules incorporated herein by reference are intended to be made a part of this Code of Ordinances.

(d) **Financial and Other Municipal Records.** Pursuant to Sec. 19.21(5), Wis. Stats., Village officers and employees may destroy financial and other municipal records for which they are the legal custodians and which are considered obsolete as provided in the *Wisconsin Municipal Records Schedule* and the State of Wisconsin's *General Records Schedules* and their successor schedules. Records maintained and subject to retention and destruction requirements include, but are not limited to, records of Village appointed and elected

officials; staff and employees; municipal department; commissions and committees; and contractors doing business with the Village. These records include, but are not limited to, those which are developed and/or submitted to the Village, or in the possession of the Village, involving municipal management and administration; general municipal actions and functions; elections; fiscal affairs and revenue; public and protective services; public works; licensing; community development and land use; and any records of elected and appointed officials, staff, municipal bodies, commissions, and departments which may be created by the Village in the future.

- (e) **Digital or Electronic Records.** Pursuant to Sec. 19.21(c), Wis. Stats., records and documents of the Village of Boyd which have been transferred entirely or created to digital, optically scanned, electronic, or other approved alternate format shall be considered original records subject to all state and local retention and destruction requirements. Electronic and digital records, including emails, are considered to be public records.
- (f) **Limitations.** This Section shall not be interpreted or construed to authorize the destruction of any municipal record in advance of the pertinent retention period prescribed by the Wisconsin Statutes, Wisconsin Administrative Code, *Wisconsin Municipal Records Schedule* and Wisconsin's *General Records Schedules*.
- (g) **Notification to Wisconsin Historical Society.** Prior to the destruction of any public record as described in Sec. 19.21(4)(a)-(c), Wis. Stats., the Village shall give written notice to the Wisconsin Historical Society sixty (60) days prior to such destruction unless this requirement is waived in the *Wisconsin Municipal Records Schedule*.

*State Law Reference:* Sec. 19.21, Wis. Stats.

*Cross-Reference:* Section 3-3-9

## **Sec. 3-3-9      Electronic Records Preservation.**

The custodian of records may keep and preserve public records by means of microfilm or other reproductive device, optical imaging or electronic formatting. Such records shall meet the standards for reproduction set forth in Secs. 16.61(7) and 16.612, Wis. Stats., and ADM 12.01 through 12.05, Wis. Adm. Code, and shall be considered original records for all purposes.

*State Law Reference:* Secs. 16.61(7) and 16.612, Wis. Stats.; ADM 12.01 – 12.05,  
Wis. Adm. Code



## Title 3 ► Chapter 4

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# Disposal of Lost, Abandoned and Surplus Property

**3-4-1** Disposal of Surplus Village Property

**3-4-2** Lost and Abandoned Property

### **Sec. 3-4-1 Disposal of Surplus Village Property.**

(a) **Definitions.**

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

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

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

**3-4-1**

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

- (1) Whenever the Village Board determines that an item of property is surplus Village property, it shall dispose of such property as it determines.
- (2) Whenever the fair market value of an item is more than Five Hundred Dollars (\$500.00) and the Village Board has determined, pursuant to the previous Subsection, that the item is surplus Village property, the department head responsible for the items shall dispose of the property by:
  - a. Donation to a nonprofit organization within the Village or to a governmental agency; or
  - b. Public auction; or
  - c. Sale by sealed bid; or
  - d. Negotiated sale.
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Village Board. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the Village and the amount of the bid shall be forfeited to the Village. In the event no bids are received, the item shall be disposed of as directed by the Village Board.
- (4) No public auction or awarding of bids shall occur under this Chapter unless a description of the item to be sold and an advance notice of the time and place for such auction or bid submission is first published as a Class 2 notice in the official Village newspaper.
- (5) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Village Board has determined, pursuant to the previous Section, that it is surplus Village property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.

(d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final.

(e) **Authority to Dispose of Property.**

- (1) Except for library materials used by the public library for lending purposes, only the Village Board may dispose of Village property which is not surplus Village property.
- (2) Whenever this Section provides for an auction or other disposition of any property, the Village Board shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for Village labor and the use of Village property, do not exceed the payment received by the Village from the auction or sale of the property.

## Sec. 3-4-2 Lost and Abandoned Property.

### (a) Village Custody of Lost or Abandoned Property.

- (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
- (2) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
- (3) No Village employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
- (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
- (5) No Village employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the Village Clerk-Treasurer.

### (b) Disposal Procedures.

- (1) **Classes of Property.** All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the Village shall be disposed of as follows, except that if the property is usable for Village operations, the property need not be sold at auction, but may become the property of the Village.
  - a. **Vehicles.** Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, of this Code of Ordinances.
  - b. **Intoxicating Liquor and Fermented Malt Beverages.** Intoxicating liquor and fermented malt beverages shall be destroyed.
  - c. **Firearms, Ammunition and Explosives.** Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriff's Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
  - d. **Other Property with a Fair Market Value of One Hundred Dollars (\$100.00) or Less.** An item of property with a fair market value of One Hundred Dollars (\$100.00) or less shall be destroyed or sold at public auction. Perishable property

which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.

- e. ***Other Property with a Fair Market Value of Over One Hundred Dollars (\$100.00).*** An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction or by sealed bid.
- f. ***Illegal property.*** Property which cannot be legally possessed shall be destroyed.

(2) ***Disposal by Auction or Sealed Bid.***

- a. Whenever any property under this Section is sold by public auction or sale or by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official Village newspaper. The property auctioned or sold by sealed bid shall be sold in as-is condition to the highest bidder. No sale or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal proceeding. The department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the Village and the amount of the bid be forfeited to the Village.
- b. Any Village official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by auction or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.

- (3) ***Lost Property.*** Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he/she may claim ownership of said property. The Chief of Police shall determine what portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any Village employee finding property in the regular course of his/her employment.

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

***State Law Reference:*** Sec. 66.0139, Wis. Stats.