

TITLE 3

Finance and Public Records

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CHAPTER 1

Finance

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**SEC. 3-1-1 FEE FOR RETURNING CHECKS WITH INSUFFICIENT FUNDS;
REIMBURSEMENT OF COLLECTION COSTS.**

- (a) The City of Ladysmith has established fees for returned checks for insufficient funds, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted on 5/6/2010.*
- (b) Collection costs and attorneys fees shall be added to the principal amounts of unpaid bills owed to the City that are placed with collection agencies.

SEC. 3-1-2 DUPLICATE TREASURERS BOND ELIMINATED.

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

State Law Reference: Section 70.67, Wis. Stats.

SEC. 3-1-3 CITY BUDGET.

- (a) **Departmental Estimates.** On or before October 1 of each year, each officer, department, board and committee shall file with the City Comptroller an itemized statement of disbursements made to carry out the powers and duties of such officer, department, board or committee during the preceding year, and a detailed statement of the receipts and disbursements on account in any special fund under the supervision of such officer, department, board or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.
- (b) **Consideration of Estimates.** The City Comptroller, with the assistance of the Finance Committee, shall consider such departmental estimates in consultation with the department head, recommend to the Common Council a budget amount for such department or activity.
- (c) **Proposed Budget.** On or before November 1, the City Comptroller, with the assistance of the Finance Committee, shall prepare and submit to the Common Council a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall including the following information:
 - (1) The expense of conducting each department and activity of the City for the ensuing fiscal year and last preceding fiscal year, with reasons provided for increase and decrease recommended as compared with appropriations for the current year.
 - (2) An itemization of all anticipated income from the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
 - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
 - (4) Such other information as may be required by the Common Council and by state law.
- (d) **Copies of Budget.** The City Clerk shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the City Clerk during regular office hours.
- (e) **Hearing.**
 - (1) A summary of such budget and notice of the time and place where such budget and detail is available for public inspection and notice of the time and place for holding the public hearing thereof shall be published in the official newspaper of the City at least fifteen (15) days prior to the time of such public hearing.
 - (2) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.
 - (3) A majority vote of the Common Council is required to adopt the proposed budget and a vote of three-quarters (3/4) of the Council is necessary to adopt the appropriations budget.

State Law Reference: Section 62.12, Wis. Stats.

SEC. 3-1-4 CHANGES IN BUDGET.

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

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

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

SEC. 3-1-6 FISCAL YEAR.

The calendar year shall be the fiscal year.

SEC. 3-1-7 PUBLIC DEPOSITORIES.

The Common Council shall designate the public depository or depositories within this state within which City funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Treasurer and bondsman shall not be liable for such losses as are defined by state law. The City Treasurer shall invest, in accordance with the City's Investment Policy (**Sec. 3-1-9**), and the interest arising therefrom shall be paid into the City Treasury. A copy of the resolution designating public depositories shall be filed annually with the State Commissioner of Banking. Pursuant to state law, designated public depositories shall be required to pledge U.S. Treasury Notes equal in amount to any uninsured balance on the City's deposit.

State Law Reference: Chapter 34 and Sec. 62.12(7), Wis. Stats.

SEC. 3-1-8 CLAIMS AGAINST CITY.

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

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

The City Treasurer may invest any City funds not immediately needed, pursuant to [Sections 66.04\(2\) and 219.05, Wis. Stats.](#) and in accordance with the City Investment Policy adopted on 10/10/88 as Resolution 1704.

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

SEC. 3-1-10 FACSIMILE SIGNATURES.

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

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

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

State Law Reference: Section 66.113, Wis. Stats.

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

The City Comptroller is authorized to prepare a Statement of Real Property Inquiry form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, electric, and sewer bills, current water and sewer bills, contemplated improvements, floodplain status, violations of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. The City may collect a fee for furnishing such information on said form, which fee is included in the fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted May 6, 2010.* A minimum of five (5) business days is required for preparation of a statement of real property status. *Ord. 2006-09 November 2, 2006.*

SEC. 3-1-13 ACCOUNTS RECEIVABLE BILLING PROCEDURES.

Billings by the City may be paid within thirty (30) days after billing without interest. Thereafter, interest may be charged at the rate of one and one-half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the fifteenth (15th) day of November shall have added to the total amount due one and one-half percent (1-1/2%) of said charges shall be entered on the tax roll as a special charge, plus a ten percent (10%) penalty charge, and become a lien upon real estate.

SEC. 3-1-14 ANNUAL AUDITS.

A firm of certified public accountants shall be employed each year by the City, subject to the confirmation of the Common Council, to conduct a detailed audit of the City's financial transactions and its books, and to assist the City Comptroller in the management of the City's financial affairs, including the City's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the City financial records of the office of the City Comptroller, include the City

Comptroller's books, the City's public utilities, Police Department records, and any other books of any board, commission, officer or employee or department of the City handling City moneys.

SEC. 3-1-15 BID SOLICITATION PROCEDURES.

(a) **Definitions.**

- (1) **Informal Quotation.** An informal quotation is a written or verbal request for quotation sent to vendors. The informal quotation is used for the purchase of goods in an amount less than the maximum dollar amount specified in Sec. 62.15(1) WI Stats, as from time to time amended.
- (2) **Formal Bid.** The formal bid procedure is used for purchasing goods in an amount over the maximum dollar amount specified in Sec. 62.15(1) WI Stats, as from time to time amended, 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) All contracts to purchase articles, goods, wares, materials or merchandise over the maximum dollar amount specified in Sec. 62.15(1) WI Stats, as from time to time amended, shall be let by contract to the lowest responsible bidder. All other contracts shall be let as the council may direct.
- (2) Informal requests for written quotations shall be solicited from at least three (3) qualified bidders. All written or verbal requests for quotations shall be issued by the Department Head or his designee and returned to and analyzed by the Department Head or his designee. 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.
- (3) When a formal bid is required or deemed to be in the best interests of the City, 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.
- (4) 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.
- (5) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the City Administrator or his designee shall insure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.

(c) **Recurring Purchases.** Department heads may make such recurring purchases for regularly used consumables to the extent of that department's budget.

- (d) **Exception as to Public Emergency.** The provisions of 3-1-15(b)(1) are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage thereto creates an emergency, in which the public health or welfare of the city is endangered, as determined by the Director of Public Works or the Administrator.
- (e) **Public Construction Contracts.** All public construction contracts the estimated cost of which exceeds the amount specified in Sec. 3-1-15 shall be let following the procedure specified in Section 62.15, et seq, as from time to time amended.
- (f) **Professional Contracts.** Professional contracts shall be reviewed by City Council for selection and approval. *Ord. 2020-04 adopted on 3/23/2020.*

CHAPTER 2

Special Assessments

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ARTICLE A

General Special Assessment Procedures

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

- (a) The City of Ladysmith, by resolution of its Common Council, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement. In addition to other methods approved by law,

- special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.
- (b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Common Council.
 - (c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefor. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.

State Law Reference: Section 66.0703, Wis. Stats.

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

- (a) Public improvements carried out pursuant to [Section 66.60, Wis. Stats.](#), and this Chapter shall be initiated by a preliminary resolution presented to the Council by the Director of Public Works, which resolution shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of installments in which special assessment may be paid or that the number of installments will be determined at hearing thereon, and direct the Director of Public Works to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk to the Director of Public Works. The City Clerk shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Director of Public Works. Upon receipt of copy of such preliminary resolution, the Director of Public Works shall prepare the report thereon.
- (b) The report required by Subsection (a) shall consist of:
 - Preliminary or final plans and specifications.
 - (1) An estimate of the entire cost of the proposed work or improvement.
 - (2) An estimate, as to each parcel of property affected, of:
 - a. The assessment of benefits to be levied.
 - b. The damages to be awarded for property taken or damages.
 - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
 - (3) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
 - (4) A copy of the report when completed shall be filed with the City Clerk for public inspection.
- (c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by [Sec. 66.0703, 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 City and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.

- (a) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the City.
- (b) A parcel of land against which a special assessment has been levied for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Common Council determines to be reasonable and just under the circumstances of each case when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. Under any circumstances the assessment will not be less than the long way of such lot. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.

SEC. 3-2-5 NOTICE OF PROPOSED OR APPROVED PROJECT.

- (a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk required in Section 3-2-2(b)(5) of this Chapter, the City Clerk or Director of Public Works shall prepare a Notice of Hearing, which notice shall comply with [Sec. 66.60\(7\), Wis. Stats.](#), and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk shall set the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.
- (a) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment. In such cases, the procedure shall be the same as hereinbefore provided excepting for the noticing and holding of public hearing thereon.

SEC. 3-2-6 COUNCIL ACTIONS AFTER HEARING.

- (a) After the hearing the Common Council may:
 - (1) Approve, disapprove, modify or re-refer the report to the Director of Public Works with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
 - (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.

- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Common Council shall assess only the difference between such assessment of benefits and the award of compensation or damage.
 - (1) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same to be done and paid for in accordance with the report finally approved.
 - (2) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (c) The City Clerk shall publish the final resolution as required in Section 3-2-2 of this Chapter.
- (d) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by [Section 66.60\(12\), Wis. Stats.](#), or any other applicable provision of law.
- (e) As soon as the assessable cost of such work or improvement is finalized, the City Clerk shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

SEC. 3-2-7 COMBINED ASSESSMENTS.

If more than a single improvement is undertaken, the Common Council may combine the assessments as a single assessment on each property affected except that the property owner may object to any one or more of said improvements.

SEC. 3-2-8 COUNCIL'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5, to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming shall be given by the City Clerk as provided in Section 3-2-6 of this Chapter.

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

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

SEC. 3-2-10 APPEALS; APPEALED ASSESSMENTS PAYABLE WHEN DUE.

- (a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by [Section 66.60\(12\) of the Wisconsin Statutes](#), as amended, within forty (40) days of the date of the final determination of the Common Council.
- (b) Pursuant to [Section 66.60\(f\), Wis. Stats.](#), it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

SEC. 3-2-11 PAYMENT OF SPECIAL ASSESSMENTS; SPECIAL ASSESSMENT A LIEN ON PROPERTY.

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

- (1) Without interest. Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Treasurer within the grace period therein allowed and as allowed in the final resolution.
 - (2) After grace period. If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at the time of preparation of the first tax roll thereafter, the same together with interest computed thereon at the interest rate established in said final resolution and in said certificates computed from the date of levy (i.e., date of final resolution) or the finalizing of assessable costs, whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owing at any time on principal together with interest to date of payment only.
- (b) **Assessment a Lien.** Pursuant to Subsection (13) of [Section 66.60, Wis. Stats.](#), any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a special charge against the property and all proceedings in relation to the collection of such special charges shall apply to such assessment, except as otherwise provided by statute.

SEC. 3-2-12 SPECIAL CHARGES PERMISSIBLE.

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution setting forth the property location, the current service rendered by the City and the special charge therefor or cost thereof. Such resolution for special charges may include, but are not limited to, snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer and water service and tree care or removal. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk, curb or gutter repair, a Class 1 notice shall be published in the official City newspaper at least twenty (20) days before the hearing or proceeding and a copy of such notice shall be mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed.
- (b) Special charges for current services shall not be payable in installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent special charge against the property as provided by [Section 66.60\(16\) of the Wisconsin Statutes](#), and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by [Section 66.60\(16\) of the Wisconsin Statutes](#), as amended.
- (c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

State Law Reference: [Section 66.60\(16\), Wis. Stats.](#)

SEC. 3-2-13 MISCELLANEOUS PROVISIONS.

- (a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (a) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of

any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.

- (c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

SEC. 3-2-14 THROUGH SEC 3-2-19 RESERVED FOR FUTURE USE.

ARTICLE B

Specific Special Assessment Policies for Public Improvements in Existing Developed Areas

SEC. 3-2-20 PURPOSE OF ASSESSMENT POLICIES.

This Article is intended to be a guideline to establish:

- (a) Minimum street construction standards to insure an adequate base, good drainage and durable surfaces.
- (b) Minimum utility construction standards to provide for adequate sanitary sewer, water service and storm sewer.
- (c) Special assessment policies to insure equitable distribution of project costs between the City and property owners.

SEC. 3-2-21 PROCEDURE FOR PETITION FOR SPECIAL ASSESSMENTS.

- (a) Lot owners desiring public improvements such as water main, sewers and curb and gutter shall file a petition with the City Clerk. Sample petitions are available at the City Clerk's office. These petitions shall be on file before September 30 of any given year in order to be considered in the budget for the following year. The amount of construction is limited within the budget of the City, and additional work is delayed until funds are available.
- (b) The Common Council will hold a public hearing prior to levying special assessments, per [Sec. 66.0703, Wis. Stats.](#)
- (c) Normally, the Common Council approves petitions which are signed by property owners who own over fifty percent (50%) of the frontage abutting the proposed improvement. However, the Common Council has authority to reject any petition and, on its own motion, order a public improvement.
- (d) Special assessment charges are based on the cost of improvement and the benefits to adjoining property. It is impossible for the City to evaluate adjacent property, so the maximum benefit to the property is usually considered equal to the total cost of the improvement. Present use of property by non-profit organizations does not reduce or eliminate assessments, because the property itself is benefitted directly and the use of the property may change.
- (e) The City may contract for such work to be done by the lowest bidder if deemed reasonable in cost, or it may have the work done by persons employed by the City.

SEC. 3-2-22 DEFINITIONS.

For the purpose of this Article, the terms or words herein shall be interpreted or defined as follows:

- (a) **Abutting Frontage.** The part of a lot, parcel or property which abuts or fronts on an improvement.
- (b) **Building Setback Line.** A line parallel to the lot line at a distance regulated by the yard requirements set up in this Code.
- (c) **Irregular Lot.** A lot within a subdivision abutting a cul-de-sac or curved street which is approximately equal in area to other lots within the subdivision, however having unusually short abutting frontage in comparison to the other lots.
- (d) **Lateral.** Service line connecting a single property or building with a main.
- (e) **Long Frontage.** The long side of a corner lot regardless of building orientation.
- (f) **Functional Street System Map.** A map showing streets classified as arterial, collector, local or rural as determined by the City Council.
- (g) **Remote Lots.** Lots or parcels without abutting frontage which receive benefit from an improvement.
- (h) **Short Frontage.** The short side of a corner lot regardless of building orientation.
- (i) **Subdivision.** See definition in Title 14 of the City of Ladysmith Code of Ordinances.
- (j) **Property.** All the adjoining lands or lots under one (1) ownership.

SEC. 3-2-23 STREET IMPROVEMENTS.**(a) General Provisions.**

- (1) Standards. All street construction shall be in accordance with the latest edition of the State of Wisconsin, Department of Transportation, Division of Highways, "Standard Specifications for Road and Bridge Construction."
- (2) Construction Dates. The final surfacing and curb shall not be placed on streets following significant street and/or utility construction until after May 1 of the year following utility construction, except with the approval of the Common Council. All final surfacing and curb construction shall be completed by October 31 of that following year.
- (3) Underground Utilities Placement. All sanitary sewer, sanitary sewer services, water main, water services, storm sewer, natural gas, cable television, telephone and underground electrical power shall be installed at least one (1) construction season prior to placing the final street surfacing unless exempted by special resolution by the Common Council.
- (4) Street Excavations. Street excavations shall be done in accordance with Sections 6-2-3 and 6-2-4 of the Ladysmith Code of Ordinances.

(b) Street Improvement Plan.

- (1) Plan Established. The City shall establish a five (5) year street improvement plan.
- (2) Plan Updates. Priorities for the initial five (5) year plan shall be recommended by the appropriate committees with the approval by the Common Council. Each year thereafter, the committees shall update the plan by adding a fifth year project, keeping in mind the spirit of the resolution to produce an orderly program of street improvements.
- (3) Budget. The Mayor may, in his budget proposals, include improvement costs for streets listed in the five (5) year plan to the extent the budget permits.
- (4) Project to be Completed in its Entirety. Each street improvement project shall be constructed in its entirety if conditions dictate (upgrade sewer lines, lower water main to prevent freezing, install sewer and water laterals to vacant lots). All improved streets shall include curb and gutter and hard surface, unless excepted by the Common Council.

(c) Street Construction or Reconstruction Standards.

- (1) Reconstruction of Existing Unsurfaced or Deteriorated Surfaced Local Streets.
 - a. Minimum width.
 1. Twenty-six (26) feet on streets with no parking allowed; or
 2. Thirty-two (32) feet on streets where parking will be allowed.
 - b. Minimum construction standards.
 1. Three (3) inch bituminous surfacing.
 2. Six (6) inch crushed aggregate base course.
 3. Tapered bituminous curb.
- (2) Construction of New Local Streets for New Street Openings.
 - a. Minimum width. Thirty-two (32) feet for streets.
 - b. Minimum construction standards.
 1. Three (3) inch bituminous surfacing.
 2. Six (6) inch crushed aggregate base course.
 3. Twenty-four (24) inch mountable concrete curb.
- (3) Bituminous Overlay of Existing Bituminous or Concrete Surfaced Local Streets.
 - a. Only streets with suitable existing bituminous or concrete surfacing and base course as determined by the Director of Public Works shall be overlaid.
 - b. Overlay thickness shall be determined by the Director of Public Works.
- c. Overlay width shall be the existing width of the street.
- (4) Rural Roads.
 - a. To be constructed only where permitted by the City Council on minimum sixty-six (66) feet wide right-of-way in predominately agricultural and undeveloped areas.

- b. Minimum width.
 - 1. Twenty-two (22) feet wide for the paved surface.
 - 2. Six (6) feet wide for the crushed aggregate shoulders.
- c. Minimum construction standards. Construction standards shall be determined by an engineering study considering soil type and traffic volumes.
- (5) Other Streets. Other streets shall be those not designated local, such as collector and arterial streets, as included on the current "Functional Street System Map" and other streets serving commercial and industrial areas.
 - a. Minimum width. Thirty-seven (37) feet.
 - b. Construction standards to be determined by an engineering study considering soil type and traffic volumes.
- (d) **Special Assessments for Improvements to Existing Streets Open to Travel Prior to January 1, 1984.**
 - (1) Existing Unsurfaced or Deteriorated Bituminous or Concrete Surfaced Local Streets. Street construction consisting of tree, curb and gutter and pavement removal, grading, construction of base course, surfacing, adjustment of manhole castings and boulevard restoration shall be completed by the City or an approved contractor and the cost paid by the City.
 - (2) Bituminous Overlay Construction or Existing Bituminous or Concrete Surfaced Local Streets. Bituminous overlay construction including the necessary base preparation, curb replacement and adjustment of manhole castings on these streets shall be completed by the City or an approved contractor and the cost paid by the City.
 - (3) Bituminous Construction on Existing Unsurfaced Rural Roads. Tree removal, grading, subbase course, base course and bituminous construction on rural roads shall be completed by the City or an approved contractor. The construction cost shall be paid by the City.
 - (4) Bituminous Overlay and Reconstruction on Existing Bituminous or Concrete Surfaced Streets Other than Residential Streets. Bituminous overlays or reconstruction or streets other than local as indicated on the Functional Street System Map shall be constructed by the City or an approved contractor. Construction costs will be paid by the City.
- (e) **Special Assessments for New Streets and Roads.**
 - (1) Opening New Local Streets (Previously Platted Areas).
 - a. Street construction on newly opened, previously platted local streets serving property with multiple ownership shall be constructed by the City or an approved contractor.
 - b. In existing undeveloped but platted areas where a street is to be constructed for the first time, fifty percent (50%) of the cost of new residential street construction shall be assessed against the owners of abutting frontage, including:
 - 1. Removal of trees and other obstacles.
 - 2. Grading.
 - 3. Construction of subbase course, base course, surfacing, driveway entrances.
 - 4. Boulevard construction.
 - 5. Engineering and administration.
 - (2) New Rural Roads. The new assessment for the surfacing and base course for a new rural road shall be equal to fifty percent (50%) of the current construction cost for a local street as described in Subsection 3-2-23 (e)(1) a and b above. Any additional construction costs shall be paid for by the City.
 - (3) Other New Streets. The assessment for new streets other than local streets, as indicated on the Functional Street Map, if any, shall be assessed against abutting frontage in an amount equal to fifty percent (50%) of the current estimated construction cost of a new local street as described in Subsection 3-2-23 (e)(1) a and b above. Any additional construction costs shall be paid for by the City.

SEC. 3-2-24 SANITARY SEWER IMPROVEMENTS.

- (a) **Extensions.** Extensions of sanitary sewers shall be in full block units of one (1) block or more when it is determined by the Common Council to be in the best interest of the public or necessary for public health and safety.
- (b) **Charges for Sanitary Sewer Extensions.** Property shall be assessed for one hundred percent (100%) of the footage abutting such streets or easements where sewer extensions are laid with the exceptions outlined in Subsections (c) through (e) below.
- (c) **Property with Double Frontage.** Where property fronts on two (2) streets but does not qualify as corner property, assessments shall be made according to Subsection (d) below as if it were corner property.
- (d) **Corner Property.** Where property fronts on two (2) or more streets and qualifies as corner property, the following procedure shall be used:
 - (1) Upon new installation on a lot up to 132' x 132', the property shall be assessed for 100% of the frontage on the long side of the lot.
 - (2) On lots where a side is greater than 132', assessment will be based on potential for development, based on minimum lot sizes of 66' x 121'.
 - (3) The assessment for replacing deteriorated mains shall be based on 100% of the frontage for the side with the service lateral. If replacement is on the non-lateral side, the property will be exempt from assessment. If the non-lateral side is greater than 132', see two (2) above.
 - (4) All frontage not assessed in Subsection (d)(1) through (d)(4) above shall be paid by the City or utility. [Sec. 3-2-24(d) revised August 9, 2004. Ord. #2004-06]
- (e) **Irregular Shaped Property.** Property which has frontage of twenty percent (20%) more or twenty percent (20%) less than the average width of the property shall be assessed for the average width of the property.
- (f) **Length of Extension.**
 - (1) Platted lots served by the sewer extension shall be assessed for the full footage whether or not the sewer abuts the full frontage.
 - (2) Unplatted areas shall be assessed only for frontage abutting the sewer, unless the sewer adequately serves the full frontage.
- (g) **Replacement for Maintenance Purposes.** The City shall maintain sewer mains and replace sections where necessary without any additional assessment to the properties.
- (h) **Rate of Assessment.**
 - (1) The rate of assessment for sanitary sewers shall be the actual cost of the project as determined by the Director of Public Works, but not to exceed the cost of an eight (8) inch sanitary sewer.
 - (2) The cost of the project shall be determined by measuring from the center of the intersection to the center of the next intersection and then dividing by the number of assessable feet in the project.
 - (3) No additional charge is made for larger than eight (8) inch mains or sewage pumping stations.
- (i) **Existing Facilities.**
 - (1) Property not previously assessed for existing mains which are presently inadequate will be assessed for new mains at one hundred percent (100%) of the regular assessment rate. Property presently served by sewer mains not fronting the property shall be assessed for new extensions fronting the property in accordance with this policy. Property presently served by private lines will be assessed for new mains. The City shall determine whether existing lines classify as private lines.
 - (2) The assessment for replacing deteriorated mains shall be the same as the assessment for new mains.
 - (3) When it is necessary to upgrade existing mains in an area prior to replacement due to deterioration of the main, the assessment shall be computed on the basis of a forty (40) year straight-line depreciation.

SEC. 3-2-25 WATER SYSTEM IMPROVEMENTS.

- (a) **Extensions.** Extensions of water mains shall be in full block units of one (1) block or more when it is determined by the Common Council to be in the best interest of the public or necessary for public health and safety.
- (b) **Charges for Water Main Extensions.** Property shall be assessed for one hundred percent (100%) of the footage abutting such streets or easements where extensions are laid, with the exceptions outlined in Subsections (c) through (f) below.
- (c) **Property with Double Frontage.** Where property fronts on two (2) streets but does not qualify as corner property, assessments shall be made according to Subsection (d) below as if it were corner property.
- (d) **Corner Property.** Where property fronts on two (2) or more streets and qualifies as corner property, the following procedure shall be used:
 - (1) Upon new installation on a lot up to 132' x 132', the property shall be assessed for 100% of the frontage on the long side of the lot.
 - (2) On lots where a side is greater than 132', assessment will be based on potential for development, based on minimum lot sizes of 66' x 121'.
 - (3) The assessment for replacing deteriorated mains shall be based on 100% of the frontage for the side with the service lateral. If replacement is on the non-lateral side, the property will be exempt from assessment. If the non-lateral side is greater than 132', see two (2) above.
 - (4) All frontage not assessed in Subsection (d)(1) through (d)(4) above shall be paid by the City or utility. *Sec. 3-2-25(d) revised August 9, 2004. Ord. #2004-06.*
- (e) **Irregular Shaped Property.** Property which has frontage of twenty percent (20%) more or twenty percent (20%) less than the average width of the property shall be assessed for the average width of the property.
- (f) **Existing Facilities.**
 - (1) Owners of property not previously assessed for presently inadequate existing mains will be assessed for new mains at one hundred percent (100%) of the regular assessment rate. Property presently served by water mains not fronting the property shall be assessed for new extensions fronting the property in accordance with this policy. Property presently served by private lines will be assessed for new mains. The City shall determine whether lines classify as private lines.
 - (2) The assessment for replacing deteriorated mains shall be the same as the assessment for new mains.
 - (3) When it is necessary for the City to upgrade existing mains in an area prior to replacement due to deteriorations of the line, the assessment shall be computed on the basis of a forty (40) year straight-line depreciation.
- (g) **Rate of Assessment.**
 - (1) The rate of assessment for water mains shall be the actual cost of the project as determined by the Director of Public Works, but not to exceed the cost of an eight (8) inch water main, which is the minimum size now allowed for most installations.
 - (2) The cost of the project shall be determined by measuring from the center of the intersection to the center of the next intersection and then dividing by the number of assessable feet in the project.

SEC. 3-2-26 SANITARY SEWER AND WATER LATERALS.

- (a) **Lateral Extension.** Laterals shall be extended to the property line in platted areas and all improved properties:
 - (1) When new sewer or water extensions are completed.
 - (2) Before curb and gutter are installed in the street.
 - (3) Before any street is paved or reconstructed.
 - (4) One (1) lateral shall be extended for each lot or building to be served.

- (b) **Charges for Laterals.** The utility will install the initial water service lateral from the main through the curb stop and box, including all labor, materials and machine work. The charge for the water lateral shall be the contractor's actual charge or that charge as approved by the PSC, if City-installed.
- (c) **Laterals Not Required.** Laterals are not required on the following unimproved properties:
 - (1) Vacant lot or portion of a lot which is too small for a building lot under the City Building Code and Zoning Code and including where the present dwelling located on a portion of two (2) or more lots precludes the possibility of another dwelling being placed thereon.
 - (2) Heavy industrial areas.
 - (3) Light industrial areas.
 - (4) Recreational, educational or religious properties which are privately owned.
 - (5) Properties which, in the judgment of the Common Council, will not likely develop in the foreseeable future or where the pattern of development cannot be determined.
- (d) **Construction Requirements.** Construction of water laterals shall conform to the rules of the Water Utility.
- (e) **Main Replacement.** The City will connect existing laterals to new sewer and water mains during replacement of private lines or inadequate mains with no charge to adjacent property owners.

SEC. 3-2-27 STORM SEWER IMPROVEMENTS.

- (a) It is the current policy of the City to bear the entire cost of storm sewers or proper alternate drainage systems in existing developed areas and in areas platted prior to adoption of this Article. Storm sewers are installed prior to street improvements and as needed to alleviate drainage problems.
- (b) The City is not responsible for drainage of private property through laterals. In general, the City will install inlets in the street and ditches to receive storm water.

SEC. 3-2-28 CURB AND GUTTER IMPROVEMENT.

- (a) **Extensions.**
 - (1) The Common Council may order installation of curb and gutter at the expense of the abutting property owners as a part of any street improvement project and authorize the construction of said curb and gutter as part of the contract for the street improvement. Alternately, the Common Council may choose not to order installation of curb and gutter in a particular location unless it has been petitioned by abutting property owners to do so.
 - (2) Curb and gutter shall be installed in units of one (1) block or more on both sides of the street.
 - (3) Adequate storm sewer and surface water drainage shall be provided before curb and gutter is installed.
- (b) **Charges for Curb and Gutter Installation.** The Director of Public Works shall determine the cost of curb and gutter projects by measuring from curb to curb (including the radius and alley cut-outs) and then dividing by the number of assessable feet in the project. Property shall be assessed at one hundred percent (100%) of the footage abutting such streets or such other locations as curb and gutter may be laid, with the exceptions outlined in Subsection (c) below.
- (c) **Irregularly Shaped Property.** Property which has frontage of twenty percent (20%) more or twenty percent (20%) less than average width of the property shall be assessed for the average width of the property.

SEC. 3-2-29 OTHER IMPROVEMENTS.

- (a) **Seal Coating.** When a seal coat is applied to a previously paved street for maintenance purposes, the City will bear the entire expense of seal coating.
- (b) **Alleys.** Alleys are generally not acceptable in new subdivisions. Dedicated alleys shall be graded and graveled at no cost to the property owners. Should alleys be constructed, the entire expense shall be borne by the property owners.

- (c) **Driveways.**
- (1) Except as provided in (2) below, property owners are responsible for construction and maintenance of driveways. Adequate provision shall be made to prevent debris from entering the street. All driveway entrances shall be subject to approval of the Director of Public Works.
 - (2) When adjoining streets are rebuilt, the City will pave with asphalt the portion of any unpaved driveway located within the street right-of-way. The City will also repair or replace with similar construction any portion of a driveway it causes to be removed to facilitate street construction. The portion to be so removed shall be at the discretion of the City, which attempts to do such repairs or replacement at a reasonable grade under each set of unique circumstances. The costs incurred under (c)(2) shall be borne by the City. *Ord. 99-09 adopted 12-02-99.*
- (d) **Sidewalks.**
- (1) Sidewalks shall be installed by property owners and as ordered in by the Common Council.
 - (2) Sidewalks shall be constructed in accordance with the appropriate City Ordinances.
 - (3) When the City orders replacement of all or portions of an existing sidewalk or orders installation of new sidewalk, the City shall cause such work to be completed and the City shall pay twenty-five percent (25%) of the cost of such work. The City shall assess the adjacent property owner for the remaining seventy-five percent (75%) of the cost of the work.
 - (4) When, in the absence of an order from the City requiring it, adjacent property owners elect to replace existing sidewalk or to install new sidewalk, such property owners shall do so at their own expense.
- (e) **Culverts.**
- (1) Property owners requesting a culvert or culverts for access to their property shall be charged for the actual cost of the culvert, plus time and materials for installation if done by the City.
 - (2) If a culvert must be replaced due to a City project, the entire cost of replacing the culvert shall be borne by the City
- (f) **Trees.**
- (1) Trees are planted by property owners at their discretion. Generally, the City will not permit the planting of large "variety" trees between the sidewalk and the curb, because of the maintenance problem created.
 - (2) The City will remove trees within the street right-of-way as required for street improvement without charge to the property owner.
- (g) **Street Lights.** Any property owner, resident or group of property owners may petition for street lights in their neighborhood. The Common Council may order street lights installed by approved petitions or on its own motion install a light. There is no charge to adjacent property owners for installation.

SEC. 3-2-30 EXTRAORDINARY COSTS AND CITY COSTS.

Costs of certain public improvements and incidentals are difficult to determine benefits for. These costs shall be borne by the City according to the following guidelines:

- (a) One hundred percent (100%) of the cost of storm sewers and catch basins.
- (b) One hundred percent (100%) of the additional costs for sanitary sewers over eight (8) inches in diameter except as indicated in Section 3-2-24.
- (c) Costs of sewage pumping stations, water pressure booster stations, highway borings and siphons shall be paid for in accordance with the current policies of the City Water Utility and Sewer Utility.
- (d) Excessive improvement costs caused by unusual soil, groundwater, bedrock, topographic, drainage or other conditions for improvements serving primarily existing dwellings as may be determined by the Council.
- (e) One hundred percent (100%) of the costs of replacement of damaged culverts and fences that are properly placed outside the street right-of-way line.

- (f) The additional cost incurred to accommodate greater traffic volumes and vehicular loads as set forth in Section 3-2-23 (c)(5) for collector, arterial and other streets that exceed the assessable portion of local streets constructed according to Section 3-2-23 (c).
- (g) The cost of assessments for improvements abutting City property other than street or alley right-of-way shall be paid by the City.
- (h) One hundred percent (100%) of the additional costs for water mains over eight (8) inches in diameter, except as indicated in Section 3-2-25.

SEC. 3-2-31 PAYMENT OF SPECIAL ASSESSMENTS.

- (a) **General Provisions.** The following formulas shall apply to all of the aforementioned capital improvement projects to be assessed to property owners:
 - (1) Each of the capital improvements may be assessed separately or combined for assessment purposes.
 - (2) The overhead costs for engineering and construction staking and inspection shall be included as a part of the total improvement cost and assessed against the abutting property in accordance with the aforementioned policies. A charge equal to fifteen percent (15%) of the construction cost shall be made if it is not possible to determine the exact amount of the engineering overhead cost applicable to a particular improvement.
 - (3) The overhead costs for fiscal agents, legal services, easement acquisitions, land acquisitions, City office staff time and materials, and other administrative costs, except engineering, shall be included as part of the total improvement cost and assessed against the abutting property in accordance with the aforementioned policies. A charge equal to ten percent (10%) of the construction cost shall be made if it is not possible to determine the exact amount of the administrative overhead costs applicable to a particular improvement.
 - (4)
 - a. The cost of improvements abutting an alley or street right-of-way and unassessable frontage shall be included in the total project cost and assessed against the assessable abutting frontage.
 - b. The City shall have plans and specifications prepared for street and utility improvements and provide for construction staking and inspection for improvements with costs for these services paid according to Section (a)(2) above.
- (b) **Payment Options.**
 - (1) Where the City finds that it is desirable to pay project costs by levying special assessments, such assessments shall be paid according to Section 3-2-31 (b)(1)a:
 - a. When the total assessment for various improvements is Five Hundred Dollars (\$500.00) or less, payments shall be made in one (1) lump sum within thirty (30) days after project completion, or in five (5) equal annual installments with an interest rate per annum as set by the Common Council on the unpaid balance.
 - b. When the total assessment for various improvements exceeds One Thousand Dollars (\$1,000.00), the lot owner(s) may pay according to Section 3-2-31(b)(1) a or may request an extension of time for payment, not to exceed thirty (30) years. *Ord. 2019-01 adopted on April 8, 2019.*
 - c. The Common Council may defer assessments against undeveloped agricultural property for a period up to ten (10) years in accordance with Wisconsin Statutes. After completion of any such deferment period, payments shall be made in accordance with this Section [i.e., if one hundred percent (100%) of the cost of the improvement is assessed, one hundred percent (100%) of the cost of engineering for the improvement shall be assessed by including it in the total cost of the project]. When such, deferred payments are made, assessments shall be recalculated according to the Director of Public Work's best estimate of the cost of the same improvements constructed in the first year such payments are made, less depreciation on a forty (40) year straight-line basis.

- (2) Where the municipality is unwilling to make a special assessment because of low density of prospective consumers or for some other reason, extensions will be made on a customer-financed basis as follows:
- a. The following definitions shall be applicable in Subsection (b)(2):
 1. Customers. The word "customer" as used in this rule means the owner of premises to which water or sewer is now or is to be furnished unless specific written agreements specify otherwise. The customer at all times means the property owner at the time a contribution is to be made or a refund becomes available.
 2. Contributor. The word "contributor" means the owner of property at the time of a contribution or refund unless otherwise specified by written agreement.
 - b. Basis for determining contributions from original customer(s). The applicant (or applicants, prorata) will advance the amount that would have been assessed under Sections 3-2-23 through 3-2-29 above. The contribution must be paid in advance of construction.
 - c. Additional customers and refunds.
 1. When additional customers are connected to a water main that was originally financed in part by customers, the utility will require a contribution from each new customer equal to the existing average contribution. When the amount of contribution computed under Subsection (2)b above is less than would have been assessed under Sections 3-2-23 through 3-2-29 above, the applicant for service shall pay an amount equivalent to the assessment. This amount shall then be refunded prorata to all contributors along the extension whose remaining contribution still exceeds what would have been assessed under Section 3-2-23 through 3-2-29.
 2. When refunds have refunded the contribution of any contributor to the applicable assessment per front foot, no further refund will be made to that individual. After all refunds have been made, the remaining premises that may connect will be charged at the rate per front foot established for the extension.
 3. The development period during which refunds shall be made will be limited to twenty (20) years.
 - d. Limit of extension. When an extension beyond an existing extension is required to serve a new customer and the cost for a customer exceeds the average remaining contribution in the original extension, then the new extension will be considered as an entirely new project, without refunds or other connection with the original extension.

SEC. 3-2-32 FEDERAL, STATE OR OTHER AID FOR CAPITAL IMPROVEMENTS.

If financial assistance is received from the federal government, State of Wisconsin or other authority for improvements and assessments are permitted by the assistance program, such assessments shall be made in accordance with this Article, except as provided in Section 3-2-34(a)(2).

SEC. 3-2-33 ENFORCEMENT AND PENALTIES.

- (a) The City Building Inspector and Director of Public Works shall have authority to make determinations on the enforcement of this Article and to issue citations for violations.
- (b) Any person, persons or agent of another violating this Article shall be liable for the payment of a forfeiture as prescribed in Section 1-1-7.

SEC. 3-2-34 VARIANCES.

- (a) The Common Council may grant variances from the provisions of this Article, but only after determining that:

- (1) Because of unique conditions of the property involved literal application of the Article would impose a hardship; or
 - (2) Such variance will promote a public purpose in keeping with a state or federal improvement program being undertaken through provisions of an incentive; and
 - (3) The variance will not violate the purpose of this Chapter.
- (b) The reason for granting such variance shall be fully documented in the official minutes or transcripts of the meeting(s) at which it is discussed or acted upon.

SEC. 3-2-35 DEFERRING PAYMENT OF SPECIAL ASSESSMENTS.

- (a) **Purpose.** The city council acknowledges that the levy of special assessments can result in extreme financial hardship in some instances. It therefore enacts this provision in order to provide necessary relief to persons affected by such a levy. It is the intent and purpose of the city council to alleviate the burden of such levies in cases where the loss of the homestead is a reasonable probability, while preserving the right for the ultimate collection of a special assessment involved.
- (b) **Definitions.** Wherever in this section the following words or terms appear they have the meaning indicated, unless the context clearly requires otherwise:
 - (1) “Indigent person” means a natural person owning and occupying a homestead against which special assessments are levied in an amount which, when considered with the overall financial condition of the person, will, within a reasonable probability, require the sale of the homestead to satisfy the payment of such special assessments.
 - (2) “Homestead” means the dwelling and so much of the land surrounding it as is reasonably necessary for use as a home, except so much of such land as is vacant and of sufficient size so that it could be divided and sold for development as permitted under appropriate zoning and other regulations.
 - (3) “Board” means the Revolving Loan Fund Administration Board.
 - (4) “Special assessment” shall include assessments levied under [s. 66.0701, et seq Wisconsin Statutes](#).
- (c) **Assumption by the City.** The city council may determine, following due application, consideration and recommendation by the board, to assume and pay on behalf of any indigent person, all or part of any special assessment, or installment thereof. Upon the granting of an application, the payment of all or part of such special assessment shall be deemed to be deferred, in accordance with and subject to the terms and conditions as set forth by the city council and this section.
- (d) **Application.** Applications for a deferment under this section shall be filed with the board clerk on forms provided by the city. The information on the form shall be sworn to by the applicant. The board shall consider the net worth, family status, amount of proposed special assessments, and all other factors relating to a determination if the applicant is an indigent person. The board shall thereafter make its recommendation on the application to the city council. The city council shall make the final determination as to the granting of the application.
 - (1) The application shall contain the following information:
 - a. Age and employment of applicant;
 - b. Schedule of applicants assets, liabilities and income from all sources; and
 - c. All other information requested by the board to assist in evaluating the application.
 - d. The board may require that an applicant appear before it to answer questions of the board regarding the application.
 - e. The board may seek further information from the applicant if the board deems it necessary.
- (e) **Confidentiality.** All information provided on the application shall be considered and treated, to the fullest extent provided by law, as confidential, privileged information, and shall be divulged only by:
 - (1) Persons using the information in the discharge of their duties imposed by law or of the duties of their office; or
 - (2) Order of a court.

- (f) **Interest.** Interest on the amount of special assessment deferred shall be imposed at the rate of 6% per year.
- (g) **Note and mortgage.** The granting of an application shall authorize the applicant to make, execute and deliver, in a form approved by the city treasurer in the amount of the special assessment deferred. The city clerk shall record a document with the office of register of deeds containing a description of the property affected, the amount of special assessment deferred, and any other appropriate information. Nothing provided in this section shall be deemed to extinguish or otherwise affect any lien established by law for the collection of any other special assessment, or any other charge that may be placed upon the tax roll.
- (h) **Placement on roll.** When a determination is made by the city council that a grantee no longer qualifies as an indigent person, the amount of special assessments deferred, and accrued interest, shall be placed upon the next available tax roll to be collected in the same manner as delinquent special assessments.
- (i) **Payment when no longer eligible.** Upon transfer of title of such property by any means, the amount of special assessments deferred, and accrued interest, shall become due and payable in full. Upon payment in full, an appropriate satisfaction shall be issued by the city treasurer and recorded in the office of the registrar of deeds.
- (j) **Payment to discharge lien.** The owner of property affected, or the heirs, personal representative or assigns of such owner, may discharge the mortgage at any time by paying the outstanding amount of special assessment owing, plus accrued interest.
- (k) **Grant not a waiver.**
 - 1. The granting of an application by the city council under this section shall not be deemed to be a waiver of the requirement that, in the event of an appeal of a special assessment, the amount of the assessment shall be paid in full as a condition to the maintenance of said appeal, as provided by Wisconsin Statutes.
 - 2. The granting of an application under this section shall not be deemed to waive the right of the city to reassess any invalid special assessment under the provisions of Wisconsin Statutes.

CHAPTER 3**Public Records**

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

SEC. 3-3-1 DEFINITIONS.

- (a) "Authority" means any of the following City entities having custody of a City record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- (b) "Custodian" means that officer, department head, division head, or employee of the City designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
- (c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes including computer tapes, computer printouts and other computer storage media. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.
- (d) "Direct Cost" means the actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) "Actual Cost" means the total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.
- (f) "Incident" means anything that shows or is evidence of an actionable offense or defense; actionable offense being defined as an event where a defense may need to be taken. *Ord. 2010-13 adopted 6/28/2010.*

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

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

vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and received for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

SEC. 3-3-3 LEGAL CUSTODIAN(S).

- (a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the City Clerk to act as the legal custodian.
- (b) Unless provided in Subsection (c), the City Clerk or the Clerk's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council. The following offices or authorities shall have as a legal custodian of records the individual so named.

<u>Authority</u>	<u>Designated Legal Custodian</u>
City Assessor's Office	City Assessor/Bldg. Insp.
General City Records (including Council Records)	City Clerk/Comptroller
Fire Department	Fire Chief
Financial Records	City Treasurer/Comptroller
Police Department	Chief of Police
City Attorney's Office	City Attorney
Public Works	Director of Public Works
Municipal Court	Court Clerk

- (c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk.
- (e) The City Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

SEC. 3-3-4 PUBLIC ACCESS TO RECORDS.

- (a) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in [Sec. 19.35, Wis. Stats.](#), and the guidelines therein listed.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (f) A requester shall be charged a fee to defray the cost of copying records. The City of Ladysmith has established fees for processing copies, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010*
 - (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 media, audio and videotapes, 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 exceeds the specified amount as established in the fee schedule, 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 the amount established in the fee schedule.
 - (6) Elected and appointed officials of the City shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
 - (7) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to [Sec. 19.34, Wis. Stats.](#), and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Common Council.

SEC. 3-3-5 ACCESS PROCEDURES.

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under [Sec. 19.37, Wis. Stats.](#) Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(5). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under [Sec. 19.37\(l\), Wis. Stats.](#), or upon application to the attorney general or district attorney.

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

- (a) As provided in [Sec. 19.36, Wis. Stats.](#) and the guidelines listed therein, the following records are exempt from inspection under this Chapter.
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;

- (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
 - (4) Pursuant to [Sec. 905.08, Wis. Stats.](#), a record or any portion of a record containing information qualifying as a common law trade secret. “Trade secrets” are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
- (b) As provided by [Sec. 43.30, Wis. Stats.](#), public library circulation records are exempt from inspection under this Section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney may deny the request, in whole or in part, only if he or she determines that harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
- (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
 - (2) Pursuant to [Sec. 19.85\(1\)\(a\), Wis. Stats.](#), records of current deliberations after a quasi-judicial hearing.
 - (3) Pursuant to [Sec. 19.85\(1\)\(b\) and \(c\), Wis. Stats.](#), records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
 - (4) Pursuant to [Sec. 19.85\(1\)\(d\), Wis. Stats.](#), records concerning current strategy for crime detection or prevention.
 - (5) Pursuant to [Sec. 19.85\(1\)\(e\), Wis. Stats.](#), records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.
 - (6) Pursuant to [Sec. 19.85\(1\)\(f\), Wis. Stats.](#), financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
 - (7) Pursuant to [Sec. 19.85\(1\)\(g\), Wis. Stats.](#), communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under [Sec. 905.03, Wis. Stats.](#)
 - (8) 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.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.
- (e) Whenever the Assessor, in the performance of the Assessor’s duties, requests or obtains income and expense information pursuant to [Section 70.47\(7\)\(af\), Wis. Stats.](#), or any successor statute thereto, then, such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor’s office and use by the Board of Review in performance of its official duties); or pursuant

to order of a court. Income and expense information provided to the Assessor under [Section 70.47\(7\)\(af\)](#), unless a court determines that it is inaccurate, is, per [Section 70.47\(7\)\(af\)](#), not subject to the right of inspection and copying under [Section 19.35\(1\), Wis. Stats. Sec. 3-3-6\(e\) adopted January 26, 2004 \(Ord. #2004-01\)](#).

SEC. 3-3-7 DESTRUCTION OF RECORDS.

- (a) City officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Bureau of Municipal Audit or an auditor licensed under [Chapter 442 of the Wisconsin Statutes](#), but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to [Sec. 16.61\(3\)\(e\), Wis. Stats.](#), and then after such shorter period:
- (1) Bank statements, deposit books, slips and stubs.
 - (1) Bonds and coupons after maturity.
 - (2) Canceled checks, duplicates and check stubs.
 - (3) License and permit applications, stubs and duplicates.
 - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (6) Receipt forms.
 - (7) Special assessment records.
 - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the Bureau of Municipal Audit or an auditor licensed under [Chapter 442 of the Wisconsin Statutes](#) subject to State Public Service Commission regulations but not less than (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to [Sec. 16.61\(3\)\(e\), Wis. Stats.](#), and then after such a shorter period, except that water stubs, receipts of current billings and customers ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.
- (4) Contracts and papers relating thereto.
 - (5) Excavation permits.
 - (6) Inspection records.
- (c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to [Sec. 16.61\(3\)\(e\), Wis. Stats.](#), and then after such a shorter period.
- (1) Contracts and papers relating thereto.
 - (2) Correspondence and communications.
 - (3) Financial reports other than annual financial reports.
 - (4) Justice dockets.
 - (5) Oaths of office.
 - (6) Reports of boards, commissions, committees and officials duplicated in the Common Council proceedings.
 - (7) Election notices and proofs of publication.
 - (8) Canceled voter registration cards.
 - (9) Official bonds.
 - (10) Police records other than investigative records.
 - (11) Resolutions and petitions, providing the text of the same appears in the official City minutes.
- (d) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to lesser time schedule as made and provided in [Sec. 7.23, Wis. Stats.](#)

- (e) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall be given the State Historical Society prior to the destruction of any record as provided by [Sec. 19.21\(4\)\(a\), Wis. Stats.](#)
- (f) Any tape recordings of a governmental meeting of the City may be destroyed, erased or reused no sooner than ninety (90) days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.
- (g) Monitoring and surveillance recordings that document incidents that may lead to claims against the governmental unit be retained for 120 days and then destroyed.
- (h) Monitoring and surveillance recordings showing no discernable incidents may be retained only until no longer needed and then reused or destroyed.
Ord. 2010-13 adopted 6/28/2010.

SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.

Any City officer or the director of any department or division of City government may, subject to the approval of the City Clerk, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in [Sec. 16.61\(7\)\(a\) and \(b\), Wis. Stats.](#), and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3-3-4 through 3-3-6 of this Chapter.

CHAPTER 4

Disposal of Lost, Abandoned, and Surplus Property

3-4-1 Disposal of Surplus City Property

3-4-2 Lost and Abandoned Property

SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY.**(a) Definitions.**

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

(b) Determination of Surplus City Property.

- (1) Whenever an item of City property is determined to be Surplus City Property on the basis that the City no longer performs the service for which the item was purchased, the Common Council shall determine whether or not the item is surplus City property.
- (2) Whenever the fair market value of the item is more than Five Hundred Dollars (\$500.00), the Common Council shall determine whether or not the item is surplus City Property.

(c) Disposition of Surplus City Property.

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

property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.

- (d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final.
- (e) **Authority to Dispose of Property.**
- (1) Except for library materials used by the public library for lending purposes, only the Common_Council may dispose City property which is not surplus City property.
 - (2) Whenever this Section provides for an auction or other disposition of any property, the Common Council shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

SEC. 3-4-2 LOST, ABANDONED PROPERTY OR SEIZED PROPERTY

- (a) **City Custody of Lost or Abandoned Property.**
- (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
 - (2) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police in an attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
 - (3) No City employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
 - (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
 - (5) No City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the City Clerk.
- (b) **Disposal Procedures.**
- (1) **Classes of Property.** All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the City shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.
 - a. **Vehicles:** Vehicles shall be disposed of as set forth in the applicable rovisions, of Title 10, Chapter 4, of this Code of Ordinances.
 - b. **Liquor and Fermented Malt Beverages:** Intoxicating liquor and fermented malt beverages shall be destroyed.
 - c. **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 Firearm 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, or contraband property is defined as property which cannot be legally possessed and shall be destroyed or disposed of as usable property and turned over to the City of Ladysmith.
1. Contraband property is defined as that which includes without limitation because of enumeration, lottery tickets, gambling machines or other gambling devices, lewd, obscene or indecent written matter, pictures, sound recordings or motion picture film, forged money or written instruments or tools, dies, machines or materials for making them, and controlled substances, as defined in [Wisconsin Statutes 961.01\(4\)](#), and controlled substance analogs, as defined in [Wisconsin Statutes 961.01\(4m\)](#), and implements for smoking or injecting them or;
 2. Anything, which is the fruit of or has been used in the commission of any crime, or ordinance that adopts by reference a specific crime or;
 3. Anything other than documents, which may constitute evidence of any crime or;
 4. Documents which may constitute evidence of any crime, if probable cause is shown that the documents are under the control of a person who is responsibly suspected to be concerned in the commission of that crime under [Wisconsin Statutes 939.05\(2\)](#).
Ordinance 2001-13 establishing Section 3-4-2(b)(1)(f) adopted October 8, 2001.
- (2) Disposal by Auction or Sealed Bid.
- a. Whenever any property under this Section is sold by public auction or sale or by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official City newspaper. The property auctioned or sold by sealed bid shall be sold in an “as-is” condition to the highest bidder. No sale or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal proceeding. The department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the City and the amount of the bid be forfeited to the City.
 - b. Any City official selling property under this Section shall maintain, for two (2) years, an inventory of any property not disposed of by auction or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.
- (3) Lost Property. Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he may claim ownership of said property. The Chief of Police shall determine what portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any City employee finding property in the regular course of his employment.
- (4) Payment to City Treasury. All sums received from the sale of property under this Section shall be paid to the City Treasury.

State Law Reference: Section 66.28, Wis. Stats.

CHAPTER 5

Room Taxes

- 3-5-1 Imposition of Room Tax
- 3-5-2 Records to Be Maintained
- 3-5-3 Definitions
- 3-5-4 Penalty Assessment

SECTION 3-5-1 IMPOSITION OF TAX

Pursuant to [Section 66.75 of the Wisconsin Statutes](#), a tax is imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motels operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of six (6%) percent of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by [Section 77.52\(2\)\(a\)\(1\), Wisconsin Statutes](#). Said tax shall be listed as a separate item on all billing or, in the alternative, may be incorporated as a tax item combined with the State and County Sales Tax designation. *Ord. 2023-03 adopted on June 12, 2023.*

- (a) **Collection of Tax.** The room tax imposed by Section 3-5-1 for each calendar quarter is due and payable and must be received in the office of the City Treasurer at the City Hall on or before the last business day of the month next succeeding the calendar quarter for which it is imposed.
- (1) **Quarterly Room Tax Returns.** A return shall be filed with the City Treasurer on or before the same date on which such tax is due and payable. Such return shall be on a form provided by the City and shall show the gross receipts of the preceeding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Treasurer deems necessary, provided it is directly related to the tax. A copy of the State of Wisconsin Sales Tax Return shall be attached to said City form as submitted to the Treasurer of the City of Ladysmith.
- (2) **Annual Room Tax Return.** Every person required to file such quarterly returns shall also file an annual calendar year return on a form provided by the City, which shall be due and filed as part of the quarterly return for the fourth quarter of each calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quartely returns, if any, and shall contain such additional information as the City Treasurer requires, provided it is directly related to the tax. All quarterly returns and all annual returns shall be signed by the persons required to file a quarterly return, or his or her or its duly authorized agent. A copy of the State of Wisconsin Annual Sales Tax Return shall be attached to said City form as submitted to the City Treasurer.
- (b) **Liability for Unpaid Tax.** The room tax imposed hereunder shall be a continuing liability upon the business entity and the land upon which said business is located and person upon whom it is imposed until paid in full, and if said business is a corporation against its officers until paid in full. Business successors shall be liable for the room tax for the four (4) preceding calendar quarters for which one or more returns have not been filed and/or payment not received. All funds collected by the business shall constitute funds held in trust by said business and shall be deemed to be the property of the City of Ladysmith immediately upon collection of the same.
- (1) **Interest on Unpaid Taxes.** All unpaid taxes under this Ordinance shall bear interest at the rate of one percent(1%) per month from the due date of the return until the first day of the month following the month in which the tax was paid.
- (2) **Delinquent Tax Returns.** Tax returns required hereunder and not timely filed shall be deemed delinquent and shall be subject to a late filing fee and where delinquent, said business shall not retain the collection fee authorized below. Said late filing fee is included in the fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted May 6, 2010.*

(3) Administration of Tax Collection

- a. The City Treasurer shall be responsible for the administration and collection of the room tax. The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this Section. The determination shall be made upon the basis of the facts contained in the return being audited and upon any other information available to the City Treasurer. The City Treasurer is authorized to examine and inspect books, records memoranda and property of any person which are directly related to the tax or which have a direct bearing upon the gross receipts upon which the tax due is determined in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the City Treasurer from making a determination of tax due at any time.
- b. The room tax collected shall be allocated as follows:
 1. Ten percent (10%) of said tax shall be retained by the business collecting the same as and for the costs of collection, provided the tax return is timely filed and provided the tax is timely paid to the City of Ladysmith. Where said tax return is not timely filed and/or paid, said ten percent (10%) shall be retained by the City of Ladysmith.
 2. Three and one half percent (3.5%) of said tax shall be retained by the City of Ladysmith to offset administrative expenses associated with the administration, collection and enforcement of said room tax.
 3. Thirty-one and one half percent (31.5%) of said tax shall be retained by the City of Ladysmith as and for the promotion of tourist and recreational activities within the City of Ladysmith.
 4. Fifty-five percent (55%) of said tax shall be paid by the City of Ladysmith to the Greater Ladysmith Area Chamber of Commerce for the promotion of tourist and recreational activities in the Ladysmith area. *Ord. 2008-02 adopted 5/27/2008*

(c) Expenditures of Tax Revenues

- (1) All monies that are generated and collected by the City Treasurer as referenced in Section 3-5-1(a) shall be placed in a separate line item account subject to all current auditing procedures.
- (2) Said monies in 3-5-1(a) shall not be used to finance, fund or support the general operation of any City department, section or operation, except as set out in 3-5-1 (b) (3) b supra.

Ord. 2008-02 adopted 5/27/2008

State Law Reference: Section 66.0615, Wis Stats.

SECTION 3-5-2 RECORDS TO BE MAINTAINED

- (a) Every person liable for the tax imposed by this Ordinance shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as to enable the City Treasurer to determine the tax due hereunder.
- (b) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the City Treasurer are deemed to be confidential, except the City Treasurer may divulge their contents to the following and no others:
 - (1) The persons who filed the return.
 - (2) Such other public officials, City auditors and the court system, when deemed necessary and after notification of the Licensee.
- (c) No person having an administrative duty under this Ordinance shall make known, in any manner, the business affairs, operation or information obtained by an investigation of records, of any person on whom a tax is imposed by this Ordinance, the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return or permit any return or copy thereof to be seen or examined by any person, except as provided herein.

SECTION 3-5-3 DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the meaning given herein:

- (a) "Hotel" or "Motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including without limitation, such establishments as hotels, inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, summer camps, recreational vehicle parks, apartment hotels, resorts, lodges, campgrounds, cabins and any other building or group of buildings or facilities in which the accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanatorium, nursing home or by corporations or associations or entities organized and operated exclusively for religious, charitable, educational or governmental purposes, provided that no part of the net earnings of such corporations or associations inure to the benefit of any private shareholder or individual.
- (d) "Gross receipts" has the meaning as defined in Section 77.51(11)(a), (b) and (c), of the [Wisconsin Statutes](#), insofar as applicable. Any federal and state tax exempt transaction shall not be included in the definition of gross receipts.
- (c) "Person" shall include corporations, partnerships or other business entities.
- (d) "Transient" means any individual residing for a continuous period of less than one month in a motel, hotel or other furnished accommodations available to the public.

SECTION 3-5-4 PENALTY ASSESSMENT

- (a) If any person fails to timely file a return, as required by this Ordinance, the City Treasurer shall make an estimate of the amount of the gross receipts upon which the tax is determined. Such estimate shall be made for the period for which such person failed to file a return and shall be based upon any information which is in the City Treasurer's possession or may come into his or her possession or such other information as may have a bearing upon the determination of gross receipts. On the basis of this estimate, the City Treasurer shall compute and determine the amount to be paid to the City of Ladysmith, adding to the sum thus arrived at, a forfeiture equal to ten percent (10%) of the gross tax; however, said forfeiture shall not exceed the sum of \$5,000.00 for any calendar year. Such determination may be made for each quarterly period for which no return is filed. Such forfeiture shall be due upon written notice to the business entity or person owing the tax and shall not be in lieu of the tax due hereunder.
- (b) If a person filed a false or fraudulent return with the intent, in either case, to effect or evade the tax imposed by this Ordinance, a penalty of fifty percent (50%) shall be added to the tax required to be paid exclusive of interest and other penalties.
- (c) In addition to other fees imposed by this Ordinance, any violation of or non-compliance with any of the provisions of this Ordinance shall subject the violator to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred dollars (\$500.00), together with the costs of prosecution, court costs and assessments. Each day of violation or non-compliance shall constitute a separate offense. The Court is also hereby authorized to enter, as a judgment, the sum due the City of Ladysmith as room taxes and for forfeitures authorized by this Ordinance.
 - (1) With respect to the City of Ladysmith, issuance of Citations under [Section 66.119 of the Wisconsin Statutes](#) is hereby authorized.
 - (2) The Clerk of Circuit Court, Rusk County, Wisconsin, shall have the authority to accept cash deposits, forfeitures and/or bonds pursuant to the schedule set forth below, or as ordered by the Circuit Court for the Rusk County.

<u>First alleged offense:</u>	\$100.00 plus court costs and assessments.
<u>Second alleged offense:</u>	\$200.00 plus court costs and assessments
(Within three years)	
<u>Third and subsequent alleged offense:</u>	\$500.00 plus court costs and assessments
(Within three years)	

- a. In lieu of the filing of a cash bond and/or deposit as set forth under [Section 66.119 of the Wisconsin Statutes](#), the City of Ladysmith shall have the right to detain the alleged violator to assure appearance of said alleged violator before the Circuit Court for Rusk County.
- b. All of the provisions of [Section 66.119 of the Wisconsin Statutes](#) are hereby incorporated herein by reference and shall be considered to be part of this Ordinance in total, including the right of the City of Ladysmith to publish statistics classified so as not to disclose the identity of particular tax returns.
- c. If any provision of this Ordinance shall be deemed unenforceable or in violation of any State or Federal law, the remaining provisions of this Ordinance shall remain in full force and effect.