

## TITLE 3

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# Finance and Public Records

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# Title 3 ► Chapter 1

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## Finance

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### **Sec. 3-1-1 Payment of Obligations Owed to the City; Reimbursement of Collection Costs.**

#### **(a) Form of Payment.**

- (1) **Types of Payment.** Except as otherwise provided in Subsection (a)(2) below, payment of any statement, obligation or liability owed or payable to the City of

Abbotsford may be made by cash, check, money order, draft or other order of payment. Any check, money order, draft or other order of payment tendered to the City Clerk-Treasurer or designee in payment of a statement, obligation or liability which shall be found to be post-dated shall be refused by the Clerk-Treasurer or designee. The Clerk-Treasurer shall deposit all funds received and may not hold or otherwise fail to deposit the same with the next scheduled deposit to the City's depository account(s).

- (2) ***Situations When Cash or Other Surety Payment Required.*** The City Clerk-Treasurer or designee may require that a statement, obligation or liability owed or payable to the City of Abbotsford be paid in cash or other surety payment (money order or certified cashier's check) if the person had at any time in the last twelve (12) months tendered to the City, or any department or agency thereof, a check, draft or order payment found to be worthless or with account insufficient funds and for which a service fee was imposed pursuant to Subsection (b) below.
- (b) **Insufficient Funds Checks; Reimbursement of Collection Costs.**
  - (1) ***Fee.*** There shall be a fee as prescribed in Section 1-3-1 for processing checks made payable to the City of Abbotsford that are returned because of insufficient funds in the account in question.
  - (2) ***Collection of Insufficient Funds Checks.*** In any civil action brought by the City for the purpose of collecting an insufficient funds check, draft or order of payment, the maker or drawer shall be liable to the City of Abbotsford, in addition to the amount owing upon such check, draft or order, for actual damages and pecuniary loss as defined in Sec. 943.24, Wis. Stats. The maker or drawer shall also be liable for any court cost, bank fees, collection costs and reasonable attorney's fees incurred by the City of Abbotsford.
  - (3) ***Payment of Fees and Damages.*** The service fee, bank fees, court costs, collection fees, reasonable attorney's fees, pecuniary loss and actual damages, in addition to the amount owing upon such check, draft or order, shall be collected in the same manner as any other indebtedness due the City of Abbotsford. Any receipt theretofore given in reliance upon a check, draft or order found to be worthless shall be null and void and no other receipt shall be given for the payment of the original indebtedness until the service fees and other charges set forth in this Section have also been paid.

## **Sec. 3-1-2      Receiving Money; Receipt for Same.**

- (a) The City Clerk-Treasurer or his/her deputies shall not receive any money into the Treasury from any source except on account of taxes levied and collected during the fiscal year for which 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 Clerk-Treasurer or his/her deputies shall make out a receipt, or provide some other means of showing payment, for the money so received. The City Clerk-Treasurer or his/her deputies shall charge the amount thereof to the City Treasury and credit the proper account. The

payment of the money to any receiving agent of the City or to the City shall be safeguarded in such manner as the Common Council shall direct.

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

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

Billings by the City of Abbotsford may be paid within thirty (30) days after billing without penalty or interest. Outstanding accounts receivable that are unpaid as of October 1 shall be mailed a payment reminder. Bills remaining unpaid on or before the first (1st) day of November shall have added to the total amount due an administrative charge of ten percent (10%) and the updated outstanding amount shall be entered on the tax roll as a special charge and become a lien upon real estate.

### **Sec. 3-1-4      Public Depositories.**

- (a) **Public Depositories Designated.** The Common Council shall designate the public depository or depositories within this state within which City of Abbotsford funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Clerk-Treasurer and bondsman shall not be liable for such losses as are defined by state law. The Clerk-Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury. Designated public depositories are:
- (1) State Local Government Investment Pool.
  - (2)
  - (3)
- (b) **Collateralization of Depository Funds.** Pursuant to state law, designated public depositories may be required by the City to pledge U.S. Treasury notes equal in amount to any uninsured balance of the City's deposit. A maximum of Five Hundred Thousand (\$500,000.00) in City funds may be deposited at any one time in any Council-authorized depository, except as otherwise provided by the Common Council. Collateralization may be required by the Common Council for any Council-approved depositing of funds in excess of Five Hundred Thousand (\$500,000.00) Dollars.

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

*Cross-Reference:* Section 3-1-8.

### **Sec. 3-1-5      Claims Against City; Outstanding Checks Procedure.**

- (a) **Payment of Claims.**
- (1) Payment of claims hereunder may be made from the City Treasury after the City Clerk-Treasurer audits and approves each claim as a proper charge against the

Treasury, and endorses his or her approval on the claim after having determined that the following conditions have been complied with:

- a. That the funds are available thereof for pursuant to the budget approved by the Common Council;
  - b. That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission;
  - c. That the item or service has been actually supplied or rendered in conformity with such authorization;
  - d. That the claim is just and valid pursuant to law.
  - e. That the City Clerk-Treasurer may pay routine claims such as insurance or utility bills up to Five Thousand Dollars (\$5,000.00); [routine meaning four (4) times or more per year] without prior Common Council approval, provided that the second signatory also signs such checks. In such instances, the Mayor's signature is affixed to checks using the Mayor's facsimile or actual signature per Section 3-1-12, countersigned by the City Clerk-Treasurer or Deputy Clerk-Treasurer.
- (2) The City Clerk-Treasurer may require the submission of such proof and evidence to support the foregoing as in his/her discretion he/she may deem necessary. The City Clerk-Treasurer also has the right to request Common Council approval on any claim.
- (b) **Report to the Common Council.** The City Clerk-Treasurer shall file with the Common Council a list of the claims approved, showing the date paid, name of claimant, purpose and amount.
- (c) **Payment of Regular Wages or Salaries.** Regular wages or salaries of City officers and employees shall be paid by payroll, verified by the proper City official, department head, board or commission and filed with the City Clerk-Treasurer in time for payment on the regular pay day. The City Clerk-Treasurer may also immediately pay non-discretionary routine bills, such as utilities statements, or bills for which there is a late payment penalty.
- (d) **Outstanding Checks Procedures.** The following procedures are to be followed for outstanding checks:
- (1) The City, after carrying a vendor check for ninety (90) days, will:
    - a. Notify payee.
    - b. If the check has been lost, a stop payment will be placed at the bank and a new check will be issued.
    - c. A stop payment will be issued on all vendor checks dated over twelve (12) months.
  - (2) All payroll checks are automatically void if not cashed within ninety (90) days of issue and all other unprocessed checks shall be void after twelve (12) months.

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

## **Sec. 3-1-6 Legal Claims Against the City.**

- (a) **Legal Claims Determinations.** The Common Council shall develop and maintain a policy and plan, pursuant to Section 893.80, Wis. Stats., to manage and control any legal claims against the City of Abbotsford, its officers, its employees and its agents. Claims for money against the City of Abbotsford or against officers, officials, agents or employees of the City arising out of acts done in their official capacity shall be filed with the City Clerk-Treasurer as provided under Sec. 893.80(1)(b), Wis. Stats. The City Clerk-Treasurer shall immediately notify the Mayor regarding the claims. The Mayor shall arrange any appropriate and necessary meeting of the Common Council for actions pursuant to Section 893.80, Wis. Stats., to allow or disallow any claim. The Mayor or Clerk-Treasurer shall contact the City Attorney regarding the claim prior to the meeting of the Common Council.
- (b) **Notice of Disallowance.** The Common Council shall allow or disallow the claim. Notice of disallowance shall be made as provided under Sec. 893.80(1)(b), Wis. Stats.

*State Law Reference:* Secs. 62.25 and 893.80, Wis. Stats.

## **Sec. 3-1-7 Temporary Investment of Funds Not Immediately Needed.**

The City Clerk-Treasurer may invest any City funds not immediately needed, pursuant to Secs. 66.0603 and 219.05, Wis. Stats., and Section 3-1-8 of the City of Abbotsford Code of Ordinances.

*State Law Reference:* Secs. 66.0604 and 219.05, Wis. Stats.

## **Sec. 3-1-8 Policy for Public Deposits and Investments.**

### **(a) Purpose.**

- (1) **Purpose; Establishment of Policies.** Cash and investments generally represent the largest asset on the City's balance sheet, and the City of Abbotsford routinely has cash available for short-term, intermediate and long-term investments. Therefore, it is important that the City establish a policy to ensure continuous prudent investment of available City funds. It is in the interest of the City of Abbotsford to adopt a policy to insure continuous prudent deposits and investments of available City funds. The Common Council of the City of Abbotsford establishes the following policies in the public interest for the deposit and investment of available City funds.
- (2) **Objectives.** The primary objectives, in priority order, of the City's investment activities shall be:

- a. **Safety.** Safety in principal is the foremost objective of the investment program. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the City will diversify its investments by investing funds among a variety of securities offering independent returns and financial institutions.
- b. **Liquidity.** The City investment portfolio will remain sufficiently liquid to enable the City of Abbotsford to meet all operating requirements which might be reasonably anticipated.
- c. **Return on Investments.** The City investment portfolio shall be designated with the objective of attaining a benchmark rate of return throughout budgetary and economic cycles, commensurate with the City's investment risk constraint and cash flow characteristics of the portfolio.

(b) **Public Depositories.**

- (1) **Depositories.** The Common Council shall, at its annual organization meeting by ordinance or resolution, designate one (1) or more public depositories, organized and doing business under the laws of this state or federal law, and located in Wisconsin, in which the City Clerk-Treasurer shall deposit all public monies received by her/him.
- (2) **Limitations.** The resolution or ordinance designating one (1) or more public depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of Sec. 66.0603(1m), Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under Sec. 34.07, Wis. Stats., by the public depository to secure the repayment of such deposits. Not more than Five Hundred Thousand Dollars (\$500,000) shall be deposited in any one (1) public depository, unless specifically authorized by the Common Council, upon the recommendation of the City Clerk-Treasurer; however, there will be no deposit limit on funds deposited in the Wisconsin Local Government Pooled Investment Fund.
- (3) **Deposits.** The City Clerk-Treasurer shall deposit public monies in the name of the City of Abbotsford in such public depositories designated by the Common Council and subject to the limitations hereinabove set forth.
- (4) **Withdrawals.** Withdrawals or disbursements by the City Clerk-Treasurer of monies deposited in a public depository shall be made as provided by Sec. 66.0607, Wis. Stats. The City Clerk-Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money transfer techniques as set forth in Sec. 66.0607, Wis. Stats.

(c) **Investment Management.**

- (1) **Management.** Authority to manage the City's investment program is derived from the Common Council. Management responsibility for the investment program is hereby delegated to the City Clerk-Treasurer who shall be responsible, under the general direction of the Common Council, for all transactions undertaken and shall establish a system of controls to regulate the activities of the subordinate officials, and



- their procedures in the absence of the City Clerk-Treasurer. Subject to the provisions of this policy, the City Clerk-Treasurer shall have general management of and discretion, under the general direction of the Common Council, in the investment of all City funds that are not immediately needed and are available for investment.
- (2) **Intent.** It is the intent of the Common Council that the City Clerk-Treasurer utilize a wise and prudent cash management system within the level of her/his expertise in such a manner to insure maximum investment earnings, while at the same time be able to respond promptly to authorized expenditures. Safety, liquidity and yield will be the prime requisites for the investment of City funds.
  - (3) **Scope.** This policy is limited in its application to funds which are not immediately needed and are available for investment. Other funds, the investment of which is subject to special federal and/or state laws and regulations, shall be invested in accordance with such laws and regulations to the extent they may be inconsistent with the provisions of this policy.
  - (4) **Responsibility.** In exercising her/his investment responsibilities, the City Clerk-Treasurer shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, having the same resources, and familiar with like matters in the management of a similar activity, with a like purpose.
  - (5) **Ethics and Conflicts of Interest.** City officials and employees involved in the investment process shall disclose personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Mayor, City Clerk-Treasurer and Common Council any material financial interest in financial institutions that conduct business within their jurisdiction.
- (d) **Investment Types.** The City Clerk-Treasurer is authorized and directed to utilize investment options as set forth within these guidelines, and that the City Clerk-Treasurer shall take into consideration the following factors which are listed in order of priority to the investment decision:
- (1) **Certificates of Deposit.** City funds may be invested in certificates of deposit maturing within three (3) years or less from the date of investment issued by any banks, savings and loan associations or credit unions which are authorized to transact business in the State of Wisconsin. The financial institutions must have been designated as a public depository of the City by resolution or ordinance of the Common Council.
  - (2) **Government Bonds and Securities.** City funds may be invested in United States government bonds or securities which are direct obligations of or guaranteed as to principal and interest by the federal government; and, bonds or securities which are obligations of any agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government.

The securities must be purchased through financial institutions authorized to conduct business in the State of Wisconsin and placed in safekeeping in a segregated account in the City's name at any designated public depository or approved financial institution.

- (3) **Government Investment Pool.** City funds may be invested in the Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.
  - (4) **Repurchase Agreements.** City funds may be invested in repurchase agreements, in financial institutions authorized to conduct business in the State of Wisconsin. Repurchase agreements can only be made in securities which are direct obligations of or guaranteed as to principal and interest by the federal government; and, securities which are obligations of an agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. Securities purchased by a repurchase agreement must be placed in safekeeping in a segregated account in the City's name at any designated public depository or approved financial institution.
  - (5) **Wisconsin Investment Trust.** City funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.
  - (6) **Savings Deposit.** City funds may be temporarily invested in savings deposits.
  - (7) **Securities.** The City Clerk-Treasurer may invest in private securities which are senior to, or on a parity with, a security of the same issuer which is rated highest or second highest by Moody's Investors Service, Standard & Poor's Corporation or other similar nationally recognized rating agency.
- (e) **Safety.**
- (1) In order to safeguard investments and deposits, the City of Abbotsford shall acquire of each public depository its annual financial statements and evaluate such statements as to the financial soundness of the depository. Also to be reviewed are other pertinent financial information filed with regulatory agencies.
  - (2) The City shall require, when investing in repurchase agreements, that collateral be pledged by the depository in an amount equal to or greater than the amount of the repurchase agreements the City has with such depository. In excess of FDIC coverage, the collateral shall be direct obligations of the United States, or of its agencies if the payment of principal and interest is guaranteed by the federal government, or obligations of the State of Wisconsin, or of the City of Abbotsford. Evidence of such collateral shall be provided by the depository.
  - (3) Consideration shall also be given to the total amount of existing City funds which are already in such depository and/or the capacity of the depository to handle the size of the deposit or investment with consideration of federal depository insurance and State of Wisconsin Guarantee Fund requirements. The City will diversify its investments by security type and institution. With the exception of U.S. Treasury securities and

authorized pools, no more than fifty percent (50%) of the City's total investment portfolio will be invested in a single security type or with a single financial institution.

(f) **Liquidity.**

- (1) The maturity of any investment shall be determined by analyzing the following factors:
  - a. Immediate cash requirements.
  - b. Projected expenditures.
  - c. Available funds on hand.
  - d. Maturing investments.
  - e. Anticipated revenues.
- (2) Investments shall not extend beyond any recognized unfunded cash needs of the City. Major consideration of maturity dates should be given to requirements of the payroll, debt service, and the bi-monthly bills and claims.

(g) **Yield.**

- (1) Yield shall be the final determining factor of the investment decision.
- (2) Bids shall be required of all investments that exceed both One Hundred Thousand Dollars (\$100,000) and a thirty (30) day or longer maturity date. A minimum of three (3) bids from the City's public depository list shall be acquired. Exceptions to the bid process include only the purchase of obligations of the U.S. Treasury and deposits in the Wisconsin Local Government Investment Pool, which shall be registered in the City of Abbotsford's name.

(h) **Miscellaneous.**

- (1) **Liability.** Notwithstanding any other provision of law, the City Clerk-Treasurer who deposits public monies in any public depository, in compliance with Sec. 34.05, Wis. Stats., is, under the provisions of Sec. 34.06, Wis. Stats., relieved of any liability for any loss of public monies which results from the failure of any public depository to repay to the public depositor the full amount of its deposits, thus causing a loss as defined in Sec. 34.01(2), Wis. Stats.
- (2) **Definitions.** Words or phrases shall, insofar as applicable, have the meaning set forth in Sec. 34.01, Wis. Stats., as amended.
- (3) **Conflicts.** This Section is enacted in accordance with the provisions of Chapter 34 and Sec. 66.0603, Wis. Stats. In case of conflict, the state laws shall prevail.

(i) **Definitions.** The following definitions shall be applicable in this Section:

- (1) **Benchmark.** A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.
- (2) **Bid.** The price offered by a buyer of securities.
- (3) **Broker.** A securities professional who brings buyers and sellers together for a commission.

- (4) **Collateral.** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan; also refers to securities pledged by a bank to secure deposits of public monies.
- (5) **Coupon.** Either:
  - a. The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value; or
  - b. A certificate attached to a bond evidencing interest due on a payment date.
- (6) **Discount.** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be a discount.
- (7) **Diversification.** Dividing investment funds among a variety of securities offering independent returns.
- (8) **Local Government Investment Pool (LGIP).** The aggregate of all funds from political subdivisions that are placed in the custody of the Wisconsin State Treasurer for investment and reinvestment.
- (9) **Market Value.** The price at which a security is trading and could presumably be purchased or sold.
- (10) **Maturity.** The date upon which the principal or stated value of an investment becomes due and payable.
- (11) **Portfolio.** The collection of securities held by an investor.
- (12) **Rate of Return.** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.
- (13) **Repurchase Agreement.** A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate his/her for this.
- (14) **Safekeeping.** A service to customers rendered by banks for a fee whereby securities or valuables of all types and descriptions are held in the bank's vaults for protection.
- (15) **Treasury Bills.** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most Treasury bills are issued to mature in three (3) months, six (6) months or one (1) year.
- (16) **Yield.** The rate of annual income return on an investment, expressed as a percentage:
  - a. "Income Yield" is obtained by dividing the current dollar income by the current market price of the security.
  - b. "Net Yield" or "Yield to Security" is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

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

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

### **Sec. 3-1-9 Duplicate Treasurer's Bond Eliminated.**

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

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

### **Sec. 3-1-10 City Budget.**

- (a) **Departmental Estimates.** Annually, but no later than October 1, each City officer or department head shall file with the City Clerk-Treasurer a statement of disbursements made to carry out the powers and duties of their respective department, board or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such department head, board or committee during such year, and of the conditions and management of such fund; also to be provided are detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Department heads and officers will provide the City Clerk-Treasurer with a recommended budget estimate for their department for the ensuing year. Such statements shall be presented in the form prescribed by the City Clerk-Treasurer and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.
- (b) **Preparation of Proposed Budget.**
  - (1) **Preparation.** The City Clerk-Treasurer, with the assistance of the Mayor, shall annually prepare and submit to the Common Council a proposed budget presenting a financial plan for conducting City affairs for the ensuing fiscal year.
  - (2) **Consideration of Estimates.** The Common Council, with the assistance of the City Clerk-Treasurer, shall consider such departmental estimates in consultation with the department head, recommend a budget amount for such department or activity.
- (c) **Proposed Budget.** On or before November 1, the Common Council shall submit for consideration a proposed budget presenting a financial plan for conducting the affairs of the City of Abbotsford 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) All existing indebtedness.
- (5) All proposed appropriations for departments, committees, commissions and boards, active or reserve accounts for next year.
- (6) All anticipated unexpended or unappropriated balances and surpluses.
- (7) Such other information as may be required by the Common Council and state law.
- (d) **Elements in Budget Summary.** Each budget summary required by Sec. 65.90(3)(a), Wis. Stats., and approved by the Common Council shall include the following:
  - (1) All expenditures by major expenditure category listed in Sec. 65.90(3)(b), Wis. Stats., for the proposed budget, the budget in effect and the budget of the preceding year.
  - (2) All revenues by major revenue service for the proposed budget, the budget in effect and the budget of the preceding year.
  - (3) Any financial source and use not identified in Subsection (d)(1) and (2) above.
  - (4) All beginning and year end balances for the proposed budget, the budget in effect and the budget of the preceding year.
- (e) **Copies of Budget.** The City Clerk-Treasurer shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the City Clerk-Treasurer during regular office hours.
- (f) **Hearing.**
  - (1) Pursuant to Sec. 65.90(4), Wis. Stats, 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 of Abbotsford 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 of Abbotsford 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.

**State Law Reference:** Secs. 62.12 and 65.90, Wis. Stats.

**Sec. 3-1-11 Changes in Budget.**

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 after any budget change is made shall be given by publication as a Class 1 notice within ten (10) days in the official newspaper of the City of Abbotsford.

*State Law Reference:* Sec. 65.90(5), Wis. Stats.

**Sec. 3-1-12 City Funds to be Spent in Accordance with Appropriation.**

No money shall be drawn from the treasury of the City of Abbotsford, 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. 3-1-13 Fiscal Year.**

The calendar year shall be the fiscal year.

**Sec. 3-1-14 Facsimile Signatures.**

In lieu of the personal signatures of the Mayor and City Clerk-Treasurer, there may be affixed on checks the facsimile signatures of such persons adopted by them and approved by such official, but the use of the facsimile signature shall not relieve such official from any liability to which he/she is otherwise subject, including the unauthorized use thereof. Such officials shall file with the City a statement authorizing such limited use of facsimile signatures.

**Sec. 3-1-15 Statement of Real Property Status.**

The City Clerk-Treasurer and his/her deputies are authorized to prepare a Statement of Real Property Status form to be used to provide property information requested for transfers of real

property such as, but not limited to, the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, and sewer bills, current water and sewer bills, contemplated improvements, floodplain status, violations of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. A minimum of one (1) business day is required for preparation of a Statement of Real Property Status. There shall be a fee as prescribed in Section 1-3-1 for compiling such information, plus an additional fee as prescribed in Section 1-3-1 for facsimile transmissions.

### **Sec. 3-1-16 Annual Audits.**

A firm of certified public accountants licensed under Ch. 442, Wis. Stats., shall be employed each year by the City of Abbotsford, subject to the confirmation of the Common Council, to conduct a detailed audit of the City's financial transactions and its financial accounts, and to assist the City Clerk-Treasurer in the management of the City's financial affairs, including the City's public utilities and public safety departments. These auditors shall be contracted with on a calendar-year basis. The financial accounts audited may, in addition to the City financial records of the office of the City Clerk-Treasurer, include the City's other financial accounts, the City's public utilities, Police Department records, and the accounts of any other boards, commissions, officers or employees of the City handling municipal monies.

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

### **Sec. 3-1-17 Liability of the City for Acts of Agents.**

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

### **Sec. 3-1-18 Bid Solicitation Procedures.**

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

- (1) **Verbal Quotation Form.** The City of Abbotsford may solicit verbal quotations on items the City purchases, which are Twenty-five Thousand Dollars (\$25,000.00) or



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

- (2) **Informal Quotation.** An informal quotation is a written request for a quotation sent to vendors. The informal quotation is used for the purchase of goods and services in an amount Twenty-five Thousand Dollars (\$25,000.00) or less.
- (3) **Formal Bid.** The formal bid procedure is used for purchasing goods and services in an amount over Twenty-five Thousand Dollars (\$25,000.00), and in some instances in amounts less than this amount. The formal bid procedure requires a legal public notice and contains detailed, written specifications regarding the goods and services to be purchased and a number of specific conditions associated with the purchase.

(b) **Bid Solicitation.**

- (1) Competitive bids or quotations may be obtained before contracting to purchase articles, goods, wares, material services or merchandise which amount in bulk to more than One Thousand Dollars (\$1,000.00). Purchases up to One Thousand Dollars (\$1,000.00) may be made by either telephone quotations, informal written quotations or formal bid. Purchases from One Thousand Dollars (\$1,000.00) to and including Twenty-five Thousand Dollars (\$25,000.00) shall be made by written quotation, telephone quotation or formal bid. Purchases over Twenty-five Thousand Dollars (\$25,000.00), pursuant to Subsection (a) above, shall be made by formal bid unless exempted from it by action of the Common Council, or if not required by the Wisconsin Statutes.
- (2) Verbal quotations for goods and services shall be secured from at least two (2) qualified vendors and the results of the quotations shall be recorded on the "Memorandum of Verbal Quotation" form and signed by the person receiving the quotations.
- (3) Informal requests for written quotations shall be solicited from at least three (3) qualified bidders on the request for quotation form. All written requests for quotations shall be issued by the City Clerk-Treasurer and returned to and analyzed by the Clerk-Treasurer and/or department head. Informal requests for written quotations may also be solicited by telephone. Vendors shall be given a reasonable time to respond to the request for an informal, written quotation and shall be given clear, concise specifications and informal bidding instructions to facilitate competitive bidding.
- (4) When a formal bid is required or deemed to be in the best interests of the City of Abbotsford, the bidding procedure shall follow the legal requirements associated with a Class One notice under the Wisconsin Statutes and the procedures normally associated with the formal bid proposal.
- (5) The formal bid proposal will contain at least the following information:
  - a. The bid number.
  - b. A detailed description of the goods and services required, including enough information about the items or services required so that more than one (1) vendor can meet the specifications.

- c. The time, date and place the bids will be opened.
  - d. The address to which the bids shall be mailed or delivered. Instructions to bidders shall include such information as delivery dates, transportation charges, proposal prices, conditions for guaranteeing the proposal, payment terms, right of rejection of proposals, right to reject merchandise, insurance requirements, alternative proposal consideration, tax information, and other appropriate information regarding the awarding and execution of the contract and contract considerations.
  - e. The bid proposal shall also include a section on special provisions including guarantees and service considerations, trade-in considerations, and other information relating to special conditions.
- (6) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the City Clerk-Treasurer shall ensure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.
- (c) **Blanket Purchase Orders.**
- (1) Upon authorization by the Common Council, the City Clerk-Treasurer may issue blanket purchase orders to those few merchants from whom many repetitive purchases are made as supplies are required.
  - (2) The Common Council shall determine the need to use a blanket purchase order procedure.
  - (3) The bidding procedure for blanket purchase orders may follow the procedures used for other goods and services.
  - (4) After a vendor has been selected, the using department or departments shall use the same purchase order number on all purchases made under the blanket purchase order. The Common Council shall authorize the individual or individuals who shall have the authority to sign for purchases under the blanket purchase order procedure.

### **Sec. 3-1-19 Special Assessment for Delinquent Utility Bills.**

- (a) In addition to other methods provided by law, it is hereby provided that special assessments for delinquent utility bills may be levied in accordance with the provisions of this Section, which are hereby adopted pursuant to Sec. 66.0809, Wis. Stats.
- (b) Delinquent utility bills and service charges shall be levied as a special assessment against the real property, shall become a lien thereon, and placed on the tax roll with the same effect as other City taxes unless the Common Council otherwise determines after notice and opportunity to be heard as hereinafter set forth.
- (c) Charges for the following services (representative) rendered by the City of Abbotsford and the City public utilities shall be paid within twenty (20) days of the date of billing:

- (1) Snow and ice removal.
  - (2) Weed elimination.
  - (3) Garbage and refuse collection, disposal and landfill dumping fees.
  - (4) Repair of sidewalks, curb and gutter.
  - (5) Charges for water and sewer service.
- (d) If the amounts due to the City of Abbotsford for services listed in Subsection (c)(1) through (4) are not paid when due, the City Clerk-Treasurer shall send a notice of the delinquent bill to the customer and to the property owner by mail.
- (e) If the amount due to City utilities for services listed in Subsection (c)(5) is not paid when due, the City utilities shall send a notice or deliver a doorway notice of the delinquent bill to the customer and to the property owner pursuant to PSC 113.132 and 113.133, Wis. Adm. Code. If the bill is still delinquent by the month of October of the billing year, the City utilities shall send a notice of the delinquent bill to the customer and the property owner by certified mail.
- (f) The notice referred to in Subsection (d) shall contain the following statement:

You are entitled to a hearing before the Common Council, or committee thereof, of the City of Abbotsford to dispute the amount of this charge. You must request this hearing by notifying the City Clerk-Treasurer in writing within ten (10) days of the date of this notice.

- (g) The notice sent by mail referred to in Subsection (e) shall contain the following statement:

You are entitled to a hearing before the Common Council, or committee thereof, of the City of Abbotsford to dispute the amount of this charge. You must request this hearing by notifying the City Clerk-Treasurer in writing within ten (10) days of the date of this notice.

- (h) In the event of a request for hearing, the City Clerk-Treasurer shall set the date and time for hearing upon receiving a written request under Subsections (f) or (g). This hearing shall be held before the Common Council, or committee thereof, for the City of Abbotsford.
- (i) At the time of the hearing referred to in Subsection (h), the Common Council, or committee thereof, shall hear all evidence brought before it concerning the correctness of the amount billed by the City of Abbotsford in accordance with this Section. At the conclusion of this hearing, the Common Council, or committee thereof, shall decide the amount due the City, and all parties in attendance shall be notified of the decision.
- (j) If the amount determined to be due to the City after the hearing referred to in Subsection (i) is not paid within five (5) days from the date of the Council's or committee's decision,

then this amount shall become a lien upon the real estate served by the services referred to in Subsection (c). This shall be accomplished pursuant to the power granted to the City of Abbotsford by Secs. 66.0627 and 66.0809, Wis. Stats.

- (k) If a hearing is not requested in accordance with this Section, the amount due the City of Abbotsford or the City public utilities shall become a lien upon the real estate served by the services referred to in Subsection (c) upon the expiration of twelve (12) days from the mailing of the notice referred to in Subsections (f) and (g).

### **Sec. 3-1-20 Delinquent Personal Property Taxes.**

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

### **Sec. 3-1-21 Alternative Claim Procedure for Refunds of Tax Payments in Excess of Tax Bill Amounts.**

- (a) **Purpose and Intent.** It is the declared intent of this Section that tax payments in excess of the tax bill amounts shall be refunded pursuant to the procedures established under this Section within fifteen (15) business days of the payment. Further, it is the declared intent that this policy shall be in full force and effect upon adoption by the Common Council, with the purpose of complying with Sec. 74.03(2), Wis. Stats.
- (b) **Authority.** This Section is adopted pursuant to the authority granted to Common Councils to enact an alternative system for approving financial claims against the City of Adams other than claims under Sec. 893.80, Wis. Stats.
- (c) **Required Procedures Upon Payment of Excess Amount Over Tax Bill Amount.** Pursuant to Sec. 62.09, Wis. Stats., upon receipt of tax payments in excess of the tax bill, the City Clerk-Treasurer shall deposit as soon as practicable all payments in the name of the City in public depositories designated by the Common Council. Upon verification by the City Clerk-Treasurer that the payment as deposited has cleared and not been returned as insufficient funds, but not later than ten (10) days after depositing, the Clerk-Treasurer shall confirm in writing: the name and mailing address of the taxpayer for whom a refund in excess of the tax bill amount is due, the amount of the refund in excess of the tax bill, the date payment was received, and a statement that the payment as made has cleared and not been returned as insufficient funds.

- (d) **Required Procedures Upon Confirmation of Excess Payment of Tax Bill Amount.**
- (1) Upon confirmation that a taxpayer has made a tax payment in excess of the tax bill amount, the City Clerk-Treasurer shall approve a claim as a proper charge against the City Treasury, and endorse his/her approval on the claim after having determined that the following conditions have been complied with:
    - a. The funds are available to pay the claim, assuming the tax payment has cleared and has not been returned.
    - b. The Common Council has authorized the refund of excess tax payment as established by the adoption of this Section.
    - c. The refund is due on the amount noticed by the City Clerk-Treasurer as a tax payment in excess of the amount of the tax bill.
    - d. The refund is a valid claim against the City, being a payment in excess of the tax bill amount.
  - (2) Further, the City Clerk-Treasurer shall prepare monthly and file with the Common Council a list of claims paid under this procedure, listing the amount of the claims, the date paid, the name of the taxpayer/claimant, and that the payment was a payment of a refund for excess tax payment.
- (e) **Issuance of Disbursement from Local Treasury.** Upon approval of the claim (or proper authorization) by the City Clerk-Treasurer under the procedures listed in Subsection (d), a refund check payable to the taxpayer/claimant named in the claim or authorization and in the amount approved shall be written by the City Clerk-Treasurer countersigned as required by Sec. 66.0402, Wis. Stats., unless facsimile signature approved by the Common Council is used, shall be issued not later than fifteen (15) business days from the date the tax payment was received by the City Clerk-Treasurer as established by the City Clerk-Treasurer in Subsection (c).
- (f) **Mailing or Delivery of Refund Check to Taxpayer/Claimant.** Upon issuance of the proper countersigned refund check, pursuant to the procedures in this Section, the refund check shall be delivered to the taxpayer/claimant or mailed to the last known address of the taxpayer/claimant by the City Clerk-Treasurer.

## **Sec. 3-1-22 Payment of Engineering, Attorney and Other Fees by Landowners Benefitting.**

- (a) **Purpose.** The Common Council of the City of Abbotsford has authorized at various times the using of the City of Abbotsford's professional staff to help various land owners resolve issues involving street and highway access questions, property line disputes, other non-zoning or non-land division matters concerning property and other matters of concern to property owners in the City of Abbotsford. While the Common Council wishes to assist property owners with those matters, it is not equitable for the other taxpayers in the City to have to absorb these professional fees where the fees were incurred to benefit specific land owners.

- (b) **Fees of City Professionals Charged Back.** Whenever either the Common Council, City Clerk-Treasurer or other City official has authorized a property owner in the City of Abbotsford to contact the City Attorney, Engineer or any other of the City's professional staff or the Common Council, City Clerk-Treasurer, or other City official contacts said City Attorney, Engineer or any of the City's professional staff or a property owner contacts the City Attorney, Engineer or any other of the City's professional staff, if said contact results in a charge to the City of Abbotsford for that professional's time and services and said service is not a service supplied to the City of Abbotsford as a whole, then and in that event the City Clerk-Treasurer shall, pursuant to the provisions of Sec. 66.0627, Wis. Stats., charge that service to said property owner for the fees incurred by the City of Abbotsford.
- (c) **Property Owner Allowed Time to Pay.** The City Clerk-Treasurer shall give each property owner billed for current services as provided for herein a period of time not to exceed thirty (30) days to pay and thereafter if that charge remains unpaid, the City Clerk-Treasurer shall automatically charge that delinquent bill against the current or next tax roll as a delinquent tax against the property as provided by law. In the event the statement rendered to the property owner or the time given for the property owner to pay is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.
- (d) **Fees Charge for Permits Issued to Municipalities, Agencies or Other Governmental Organizations.** Whenever it is requested that the City of Abbotsford grant approvals to any other municipality, agency or other governmental body and that permit process requires the assistance of the professional staff of the City, those fees shall also be charged back to the municipality, agency or governmental body seeking the permit.

### **Sec. 3-1-23 Preparation of Tax Roll and Tax Collections.**

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

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

### **Sec. 3-1-24 Hotel-Motel Room Tax.**

- (a) **Definitions.** As used in this Section:
  - (1) **Hotel or Motel.** A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments

as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations, including mobile homes, rented for a continuous period of more than thirty (30) days and accommodations furnished by any hospital, sanatoriums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

- (2) **Gross Receipts.** Has a meaning as defined in Sec. 77.51(4)(a), Wis. Stats., insofar as applicable.
- (3) **Transient.** Any person residing for a continuous period of less than thirty (30) days in a hotel, motel or other furnished accommodations available to the public.
- (4) **Person.** Any natural person, firm, partnership, joint venture, joint stock company, association, public or private corporation, the United States, the State of Wisconsin, including any unit or division thereof, any county, city, village, town, municipal utility, municipal power district or other governmental unit, cooperative, estate, trust, receiver, executor, administrator, any other fiduciary, and any representative appointed by order of any court or otherwise acting on behalf of others.

(b) **Scope of Tax and Tax Rate.**

- (1) Pursuant to Secs. 66.0613 and 66.0615, Wis. Stats., a tax is hereby imposed in the City of Abbotsford on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations.
- (2) Such tax shall be at a rate of three percent (3%) 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 Sec. 77.52(2)(a)1, Wis. Stats.

(c) **Collection of Tax; Annual Returns Statement.**

- (1) The room tax collection shall be administered by the City Clerk-Treasurer.
- (2) The tax imposed for the months of January, February and March, and for each calendar quarter thereafter is due and payable on the last day of the month next succeeding the calendar quarter for which the room tax was imposed by the City. A return shall be filed with the Clerk-Treasurer by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such returns shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Clerk-Treasurer considers necessary.
- (3) Every person required to file such quarterly return shall, with the first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of such calendar or fiscal year. The annual return

shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the City Clerk-Treasurer requires. Such annual returns shall be made on forms as prescribed by the City Clerk-Treasurer. All such returns shall be signed by the person required to file a return or duly authorized agent, but need not be verified by oath.

- (4) The City Clerk-Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the filing date.

(d) **Audit.**

- (1) The City Clerk-Treasurer may, by an office audit, determine the tax required to be paid to the City of Abbotsford by the person responsible to pay the tax. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the City Clerk-Treasurer's possession that meets the criteria set forth in Sec. 66.0613, Wis. Stats. One or more such office audit determination may be made of the amount due for any one or for more than one period.
- (2) The Clerk-Treasurer may, by field audit, determine the tax required to be paid the City or the refund any person under this Section. The determination may be made upon the basis of the facts contained and the return being audited or upon any other information within the Clerk-Treasurer's possession. Whenever the Clerk-Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the room tax is not correct, the Clerk-Treasurer is authorized to determine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or of any other person. Nothing herein shall prevent the Clerk-Treasurer from making a determination of tax at any time.

- (e) **Failure to File Return or Pay Tax.** If any person responsible to pay room tax fails to pay the tax due, fails to pay the proper amounts due based on the audit or fails to file a return, the Clerk-Treasurer may estimate the amount due based on estimated gross receipts. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the City Clerk-Treasurer's possession or may come into the City Clerk-Treasurer's possession. On the basis of this estimate, the City Clerk-Treasurer shall compute and determine the amount required to be paid to the City of Abbotsford, adding to the sum thus arrived at a penalty equal to ten percent (10%) thereof. One or more such determinations may be made for one or more than one period.

(f) **Delinquent Returns and Payment; Penalties and Forfeiture.**

- (1) Delinquent tax returns shall be subject to a late filing fee of One Hundred Dollars (\$100.00).
- (2) The tax imposed by this Chapter shall become delinquent if not paid:
  - a. In the case of timely filed return, within thirty (30) days after the due date of the return, or within thirty (30) days after the expiration of an extension period, if one is granted.
  - b. In the case of no return or a return filed late, by the due date of the return.



- (3) In the event the taxpayer is delinquent in payment of the tax, a forfeiture of twenty-five percent (25%) or Five Thousand Dollars (\$5,000.00), whichever is less, of the entire tax finally determined shall be imposed. The forfeiture is exclusive of interest and other penalties.
- (4) All delinquent taxes under this Chapter shall bear interest at the rate of eighteen percent (18%) per year from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the City Clerk-Treasurer. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computations. If the City Clerk-Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return, he/she shall not allow any interest thereon.
- (g) **Records to Be Maintained.** Every person liable for the tax imposed by this Section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the City Clerk-Treasurer and this Chapter shall require. Such records shall be retained and made available for a period of five (5) years from the due date of the filing period.
- (h) **Sale of Business.** If any person responsible to pay the room tax under this Section sells his, her or its business, sells his, her or its stock or goods or quits his, her or its business, the successors in interest or the assigns shall withhold sufficient amounts from the purchase price to be paid to the former owner to cover any past or current amount due under this Section. This amount shall be held from the previous owner until that owner provides the successor or assigns a written receipt from the Clerk-Treasurer stating that no amount is due from the former owner to the City under this Section. Failure to withhold the proper amount due the City from the former owner shall make the successors in interest or the assigns personally liable for the payment of the amount due and required to be withheld up to the extent of the value of the hotel, motel or other public transient accommodation valued in dollars.
- (i) **Confidentiality Maintained.**
  - (1) All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Clerk-Treasurer, are deemed to be confidential, except the Clerk-Treasurer may divulge their contents to the following, and no others:
    - a. The person who filed the return.
    - b. Officers, agents or employees of the Federal Internal Revenue Service or the Wisconsin Department of Revenue.
    - c. Officers, employees or agents of the City Auditor.
    - d. Such other public officials of the City of Abbotsford, when deemed necessary.
    - e. When such disclosure is required by law.
  - (2) No person having an administrative duty under this Section shall make known in any manner the business affairs, operations or information obtained by an investigation of

- records of any person on whom a tax is imposed by this Section, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person except as provided in this Section.
- (3) Notwithstanding the foregoing, the City may provide for the publishing of statistics, classified so as not to disclose the identity of the particular persons.
- (j) **False or Fraudulent Return.** If a false or fraudulent return is filed with the intent in either case to defeat or evade the tax imposed by this Section, a penalty of fifty percent (50%) of the tax due shall be paid in addition to the tax, interest and later filing penalty.
- (k) **Penalties.** Any person who is subject to the tax imposed by this Chapter or who fails or refuses to permit the inspection of his/her records by the City Clerk-Treasurer after such inspection has been duly required by such Clerk-Treasurer, or who violates any other provision of this Chapter, shall be subject to a forfeiture of Fifty Dollars (\$50.00). Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.
- (l) **Use of Proceeds.** The City of Abbotsford shall spend at least seventy percent (70%) of the taxes collected under this Chapter on tourism promotion and development as required by Sec. 67.75(1m)9d(1), Wis. Stats.

## Title 3 ► Chapter 2

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### **Special Assessments**

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#### **Sec. 3-2-1 Common Council May Levy Special Assessments.**

- (a) The City of Abbotsford, 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:* Secs. 66.0701 and 66.0703, Wis. Stats.

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

- (a) Public improvements carried out pursuant to Secs. 66.0701 and 66.0703, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the City Engineer, 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 City Engineer to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk-Treasurer to the City Engineer. The City Clerk-Treasurer shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the City Engineer. Upon receipt of copy of such preliminary resolution, the City Engineer shall prepare the report thereon.
- (b) The report required by Subsection (a) shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) An estimate of the entire cost of the proposed work or improvement.
  - (3) An estimate, as to each parcel of property affected, of:
    - a. The assessment of benefits to be levied.
    - b. The damages to be awarded for property taken or damages.
    - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
  - (4) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
  - (5) A copy of the report when completed shall be filed with the City Clerk-Treasurer for public inspection.
- (c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.0703, Wis. Stats., and Subsections (a) and (b) above still contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

### **Sec. 3-2-3 Costs That May be Paid by Special Assessment.**

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the City and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

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

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

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

- (a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk-Treasurer required in Section 3-2-2(b)(5) of this Chapter, the City Clerk-Treasurer or City Engineer shall prepare a Notice of Hearing, which notice shall comply with the Wisconsin Statutes, and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk-Treasurer shall set the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk-Treasurer who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than

ten (10) days and not more than forty (40) days after the publication or mailing of said notice.

- (b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment. In such cases, the procedure shall be the same as hereinbefore provided excepting for the noticing and holding of public hearing thereon.

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

- (a) After the hearing, the Common Council may:
  - (1) Approve, disapprove, modify or re-refer the report to the City Engineer with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
  - (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement 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.
- (c)
  - (1) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
  - (2) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The City Clerk-Treasurer shall publish the final resolution as required in Section 3-2-2 of this Chapter.
- (e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Sec. 66.0703, Wis. Stats., or any other applicable provision of law.
- (f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk-Treasurer shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

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

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

### **Sec. 3-2-8 Council's Power to Amend, Cancel or Confirm Special Assessment.**

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

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

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

### **Sec. 3-2-10 Appeals; Appealed Assessments Payable When Due.**

- (a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Sec. 66.0703, Wis. Stats., as amended, within forty (40) days of the date of the final determination of the Common Council.
- (b) Pursuant to Section 66.0703, Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

### **Sec. 3-2-11 Payment of Special Assessments; Special Assessment a Lien on Property.**

- (a) **Payment of Special Assessments.**
  - (1) ***Without interest.*** Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Clerk-Treasurer within the grace period therein allowed and as allowed in the final resolution.

- (2) **After grace period.** If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at time of preparation of the first tax roll thereafter the same, together with interest computed thereon at the interest rate established in said final resolution and in said certificates computed from the date of levy (i.e., date of final resolution) or the finalizing of assessable costs, whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owing at any time on principal together with interest to date of payment only.
- (b) **Assessment a Lien.** Pursuant to Sec. 66.0703, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

### **Sec. 3-2-12 Special Charges Permissible.**

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution setting forth the property location, the current service rendered by the City and the special charge therefor or cost thereof. Such resolution for special charges may include snow and ice removal, weed elimination, street sprinkling oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer, electric and water service and tree or shrubbery trimming or removal. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk, curb or gutter repair, a Class 1 notice published in the official City newspaper at least twenty (20) days before the hearing or proceeding and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed.
- (b) Special charges for current services shall not be payable installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Section 66.0627, Wis. Stats., 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 Sec. 66.0627, Wis. Stats., as amended.

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

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

*Cross-Reference:* Section 8-3-5 "Grass Clippings; Brush Collection".

### **Sec. 3-2-13    Miscellaneous Provisions.**

- (a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.
- (c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

### **Sec. 3-2-14    Special Assessment B Bonds.**

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

### **Sec. 3-2-15    Special Assessments and Charges For Specific Public Works and Improvements.**

- (a) **Purpose.** For the purpose of establishing fixed costs for public works and improvements, not located in new plats or subdivisions, and to avoid future variations in procedures and charges, the Common Council has determined, by ordinance, that the cost of installing any public work or improvements shall be charged in part to the property benefited thereby as

an exercise of the City's police powers and to make an assessment against such property in the manner set forth in this Chapter. Public improvements necessitated by the creation of a new subdivision or other land division shall be governed by the provisions of Title 14 of this Code of Ordinances. Special assessments under this Section and Sec. 3-1-16 shall be considered to include an engineering, legal and administrative fee of fifteen percent (15%).

**(b) New Sewer Main Extension Special Assessments.**

- (1) Where sewer main(s) is to be extended in areas of the City of Abbotsford not serviced by existing mains, but not a part of a new plat, subdivision or other land division, the cost to be assessed against the property abutting or benefiting from the extension shall be Five Dollars (\$5.00) per running foot for property owners on both sides of the main, which shall include sewer and laterals to the property line.
- (2) Where new sewer extensions are extended to property on both sides, as with a corner lot, the property owner shall not be charged for both sides, but only for the measured lot size on the longest side.
- (3) If any land presently within the City limits is presently serviced by a sewer main, the property owners abutting such mains shall not be subject to an assessment at the time new users attach to the existing main.

**(c) Sidewalk Reconstruction Special Assessments.**

- (1) The requirements for and payment of the cost thereof of sidewalks part of a new subdivision, plat or other land division shall be governed by the provisions of Title 14 of this Code of Ordinances.
- (2) Where existing sidewalks are repaired and/or reconstructed or where sidewalks are extended into existing areas of the City of Abbotsford, the Common Council has determined that the costs of laying, removing or extending such sidewalks in front of any lot or parcel of land, whether the work be done under contract or otherwise, shall be assessed to the property owner at the sum of Fifty Cents (\$0.50) per square foot for sidewalks of standard four (4) inch thickness. Costs beyond Fifty Cents (\$0.50) per square foot shall be borne by the City, except that if a property owner requests to have a sidewalk greater than of four (4) inch thickness or to have additional fill beyond that recommended by the City Engineer or Public Works Department Manager, such additional cost shall be borne entirely by the property owner.

**(d) Water Main Extensions.**

- (1) ***Provisions of the Extension Rule.*** Water mains will be extended for new customers on the following basis:
  - a. Where the cost of the extension is to immediately be collected through assessment by the City against the abutting property, the procedure set forth in this Chapter and the Wisconsin Statutes regarding special assessments shall apply, and no additional customer contribution to the utility will be required.
  - b. Where the City is unwilling or unable to make a special assessment, then extension will be made on a customer-financed basis as follows:

1. The applicant(s) will advance as a contribution in aid of construction the total amount equivalent to that which would have been assessed for all property under Subsection (d)(1)a above.
  2. Part of the contribution required under Subsection (d)(1)b.1 shall be refundable. When additional customers are connected to the extended main within twenty (20) years of the date of completion, contributions in aid of construction shall be collected equal to the amount which would have been assessed under Subsection (d)(1)a for the abutting property being served. This amount shall be refunded to the original contributor(s). In no case will the contributions received from additional customers exceed the proportionate amount which would have been required under Subsection (d)(1)a nor will it exceed the total assessable cost of the original extension.
  3. When a new customer(s) is connected to an existing main, not financed by customer contributions, it shall not be considered as a main extension and no contribution may be collected from the customer(s).
- (2) **Cost of Extensions for New Customers.** Extensions for new customers of water mains in the City will be made on a customer-financed basis in which the customer or the applicant for extension will advance as a contribution in aid of construction the full amount of the actual cost. In the event that construction of residential, industrial or commercial property shall not take place at the time of the extension, the cost of the extension may be deferred until there are actual connections to the extended water main, up to a period not to exceed ten (10) years.
- (3) **Water Main Installations in Platted Subdivisions.**
- a. Application for installation of water mains in regularly platted real estate development subdivisions shall be filed with the City Clerk-Treasurer and shall set forth the following information:
    1. Name of subdivision;
    2. Legal description;
    3. Map showing streets, lots and sizes of proposed mains and hydrants, and street laterals;
    4. Date of approval of subdivision plan by State agencies;
    5. Date of approval of proposed mains by the Wisconsin Department of Natural Resources; and
    6. Number of houses presently under construction.
  - b. Upon receipt of the application, the Water Utility will prepare detailed estimates of the cost of extending water mains and hydrants of the size deemed necessary in the subdivision and submit the same to the Common Council for approval of the extension as it pertains to public fire-protection service requirements.
  - c. The applicant for water service to be supplied to a subdivision shall be required to advance to the Utility, prior to the beginning of the construction, the total

estimated cost of the extension. If the final costs exceed estimated costs, an additional billing shall be made for the balance of the cost due. This balance is to be paid within thirty (30) days. If final costs are less than estimated, a refund of overpayment shall be made by the Water Utility.

### **Sec. 3-2-16 Paving and Curb/Gutter Improvement Charges.**

- (a) **Purpose.** For the purpose of establishing a consistent policy and fixed rates for the replacement and/or installation of curb and gutter or hard-surfaced paving, whether concrete or bituminous asphalt paving material, within the City of Abbotsford, the Common Council has determined that it is in the public interest to establish the rates for such improvements, based on the costs to the City. Other than for new infrastructure improvements for new subdivisions that are the responsibility of the subdivider/developer under Title 14 of this Code of Ordinances, it is the public policy of the City of Abbotsford to install or reconstruct curb and gutter and hard-surface paving under a system of cost-sharing under which the City shares part of the cost and the abutting property owner(s) shares part of the project cost.
- (b) **Charges Established.** Except where new infrastructure improvements for new subdivisions are the responsibility of the subdivider/developer under Title 14 of this Code of Ordinances, all first-time curb and gutter and/or paving installation shall be assessed against the abutting property owner(s), including corner lots, at the rate of Ten Dollars (\$10.00) per front foot. In the case of curb and gutter construction, the number of feet for which an assessment shall be levied will be based on the lot measurement on all sides curbed, with no reduction for corner lot location.
- (c) **Installment Payments.** The property owner may elect to pay the special assessment for curb and gutter and paving in five (5) installments, the first payment to be due on or before January 31st of the year following the installation of the curb and gutter and paving, and on or before the 31st day of January in each and every year thereafter. Interest on the unpaid balance shall be charged at the same rate charged to the City by financial institutions for short-term borrowing, plus an administrative charge.

## Title 3 ► Chapter 3

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# Public Records

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

The following definitions shall be applicable in this Chapter:

- (a) **Authority.** Any of the following City of Abbotsford 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.** 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) **Public Record.** "Public records are:
  - (1) All property and things received from the (municipal) officer's predecessor or other persons and required by law to be filed, deposited, or kept in the officer's office, or which are in the lawful possession or control of the officer or the officer's deputies [Sec. 19.21(1), Wis. Stats.];
  - (2) Any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by an authority [Sec. 19.32(2), Wis. Stats.];

- (3) All books, papers, maps, photographs, films, recordings, optical discs, electronically formatted documents, or other documentary materials, regardless of physical form or characteristics, made or received by any state agency or its officers or employees in connection with the transaction of public business [Sec. 16.61(2)(b), Wis. Stats.]; and
- (4) Includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), CDs, DVDs, flash drives, emails, and computer printouts. "Public record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his/her office or employment/duties with the municipality; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of the authority other than a public library which are available for sale, or which are available for inspection at a public library.
- (d) **Direct Cost.** The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) **Actual Cost.** The total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

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

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

- (a) Except as provided under Sections 3-3-7 and 3-3-8, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the City Clerk-Treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

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

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

- (b) Unless provided in Subsection (c), the City Clerk-Treasurer or the City Clerk-Treasurer's designee shall act as legal custodian for the City 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.

<b>Authority</b>	<b>Designated Legal Custodian</b>
General City Records (including Council Records)	City Clerk-Treasurer
Fire Department	Fire Chief
Police & EMS Department	Chief of Police

- (c) (1) As the custodian of the records of the City, the individuals in the positions designated in Subsection (b) shall be responsible to the Common Council for a timely response to any request for access to the public records of the City. The custodian shall be responsible for the release of the public records of the City, the conditions under which records may be inspected, and the collection of costs for the location, reproduction, and/or mailing or shipping of such records, as well as for the preparation of written statements denying access in whole or in part.
- (2) It is directed that all employees of the City be informed in writing that the above described officers have been designated the custodians of the public records of the City. Employees shall further be informed of the duties of the custodians and shall also be made aware of the other requirements and provisions of this policy.
- (d) 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.
- (e) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk-Treasurer.
- (f) The City Clerk-Treasurer shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

## **Sec. 3-3-4 Public Access to Records.**

### **(a) Powers of the Custodian of the Records of the City.**

- (1) All requests for the release, inspection and/or reproduction of the public records of the City shall be directed or referred to the responsible custodian.

- (2) The custodian is hereby vested with full legal power to make all necessary decisions relative to the withholding of or release, inspection and reproduction of public records and is further granted all authority necessary to carry out all duties and responsibilities required by either the Wisconsin Public Records Law [Sec. 19.31-19.39, Wis. Stats.] or this Chapter.

(b) **Access Policies.**

- (1) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.
- (2) Records will be available for inspection and copying during all regular office hours.
- (3) 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.
- (4) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
- (5) 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.

(c) **Adoption of Fee Schedule Regarding the Costs for the Location and/or Reproduction of the Records of the City.**

- (1) The Common Council hereby adopts a fee schedule in accord with Sec. 19.35(3), Wis. Stats., to cover the actual costs relating to the location, reproduction and mailing or shipping of any of the records of the City. It is intended that this fee schedule shall cover the payment of the actual, necessary and direct costs incurred in locating a document, in providing any person with a reproduction of any of the records of the City and in sending the same to the requestor. This schedule shall be reviewed periodically by the Common Council and adjusted by motion or resolution as the need arises. Exceptions to the fee schedule may be considered by the custodian.
- (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
- (3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and video-tapes, shall be charged.
- (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
- (5) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- (6) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
- (7) 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.



- (8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (d) **Notice.**
- (1) Pursuant to Sec. 19.34(1), Wis. Stats., the City hereby adopts a Notice as the official means of advising the public of the procedure of the City in responding to requests for release, inspection or reproduction of the records of the City.
  - (2) The Notice is intended to provide all necessary information which might be required by a member of the public in order to obtain access to the records of the City. Any questions in regard to the Notice shall be directed to the custodian of the records of the City.
  - (3) The Notice may be modified from time to time by Common Council action, but absent such modification, the decisions of the custodian of the records of the City shall be in conformity with its provisions.
  - (4) 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.
- (e) **Indemnification of the Custodian of the Records of the City.** Any costs or fees incurred by the legal custodian of the records of the City shall be directly reimbursed by the City to the custodian and shall not be treated as the personal liability of the custodian.
- (f) **Separation of Information.** If a record contains information which may not be made public, the custodian shall separate from it such information as may be made public and make the latter available for inspection and reproduction. There shall be no fee charged for separation costs.

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

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is

received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

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

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

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

commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.

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

required under Sec. 103.13, Wis. Stats., containing information maintained, prepared, or provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an individual who holds a local or state public office, unless the individual authorizes the authority to provide access to such information. This limitation does not apply to the home address of an individual who, as a condition of employment, is required to reside in a specified location.

- (9) ***Personally Identifiable Information Relating to Certain Employees.*** Unless access is specifically authorized or required by statute, an authority shall not provide access to a public record prepared or provided by an employer performing work on a project to which Sections 66.0903, 66.0904, 103.49, or 103.50, Wis. Stats., applies, or on which the employer is otherwise required to pay prevailing wages, if that record contains the name or otherwise personally identifiable information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information. "Personally identifiable information" does not include an employee's work classification, hours of work, or wages or benefit payments received for work on such a project.
- (10) ***Financially Identifying Information.*** An authority shall not provide access to personally identifiable data that contains an individual's account or customer number with a financial institution including credit card numbers, debit card numbers, checking account numbers, or draft account numbers, unless specifically required by law.
- (b) ***Public Library Circulation Records.*** As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Chapter.
- (c) ***Assessor's Income and Expense Records.*** Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to Sec. 70.47(7)(af), Wis. Stats., or any successor statute, then such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharge of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and by the Board of Review in performance of its official duties); or pursuant to the order of a court. Income and expense information provided to the Assessor under Sec. 70.47(7)(af), Wis. Stats., unless a court determines that it is inaccurate, is, per Sec. 70.47(7)(af), Wis. Stats., not subject to the right of insertion and copying under Sec. 19.35(1), Wis. Stats.
- (d) ***Municipal Utility Customer Information.***
  - (1) ***Restrictions on Access to Customer Information; Exceptions.*** Pursuant to Sec. 196.137(2), Wis. Stats., a municipal utility shall not release customer information to any person except with the prior consent of the customer. Customer information is

not subject to inspection or copying under Sec. 19.35, Wis. Stats. The following are exceptions to this prohibition where municipal utility customer information may be released to the following parties without prior consent from the utility customer:

- a. Agents, vendors, partners, and affiliates of the municipal utility that are engaged to perform any services or functions for or on behalf of the utility. This may include other municipal departments.
  - b. Transmission and distribution utilities and operators within whose geographic service territory the customer is located.
  - c. The Wisconsin Public Service Commission (PSC) or any person whom the PSC authorizes by order or rule to receive customer information.
  - d. An owner of a rental dwelling unit to whom the municipal utility provides notice of past due charges per Sec. 66.0809(5), Wis. Stats.;
  - e. A municipal security purchaser or investor in order to comply with security disclosure obligations;
  - f. A title agent, insurer, lender, mortgage broker or attorney in connection with the preparation of real estate closing documents;
  - g. A lender or prospective purchaser in connection with the foreclosure of a property;
  - h. An owner of real property provided with municipal utility service or the owner's designated agent; or
  - i. Any person who is otherwise authorized by law to receive customer information.
- (2) **Definitions.** The following definitions shall be applicable in this Subsection:
- a. "Customer information" means any information received from municipal utility customers which serves to identify customers individually by usage or account status.
  - b. "Municipal utility" has the meaning given in Sec. 196.377(2)(a)3, Wis. Stats.

- (e) **Miscellaneous Grounds for Records Access Denial.** In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the municipal attorney, may deny the request, in whole or part, only if the legal custodian determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. In addition to specific nondisclosure records specified in this Section, general examples of matters involving certain official closed meeting minutes or sensitive internal municipal investigative matters for which disclosure may be refused include, but are not limited to, the following:

- (1) **Quasi-Judicial Hearing Deliberations.** Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of deliberations concerning a case which was the subject of any judicial or quasi-judicial hearing or trial before that governmental body.
- (2) **Employment Deliberations Records.** Pursuant to Sec. 19.85(1)(b), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion,

demotion, compensation determination, performance or discipline of any municipal officer or employee, or the investigation of charges against a municipal officer or employee, unless such officer or employee consents to such disclosure.

- (3) **Crime Prevention Strategies.** Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
  - (4) **Records Pertaining to Competitive or Bargaining Matters.** Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of property for the municipality, investing of municipal funds, or other municipal business whenever competitive or bargaining reasons require nondisclosure.
  - (5) **Sensitive Personal Information.** Pursuant to Sec. 19.85(1)(f), Wis. Stats., medical, financial, social or personal histories or disciplinary data for specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  - (6) **Privileged Communications With Legal Counsel.** Pursuant to Sec. 19.85(1)(g), Wis. Stats., records of current deliberations which involve communications between legal counsel for the municipality and any official, officer, agent or employee of the municipality when legal advice being rendered concerning strategy with respect to current litigation in which the municipality or any of its officials, officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.
  - (7) **Ethics Opinions.** Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.
  - (8) **Certain Acts by Businesses.** Pursuant to Sec. 19.85(1)(i), Wis. Stats., records of deliberations considering any or all matters related to acts by businesses under Sec. 560.15, Wis. Stats., which, if disclosed to the public, could adversely affect the business, its employees or former employees.
- (f) **Redacting.** If a municipal record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The legal custodian of the record shall confer with the municipal attorney prior to releasing any such record and shall follow the guidance of the municipal attorney when separating out the exempt material. If, in the judgment of the legal custodian and the municipal attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

## **Sec. 3-3-7 Retention and Destruction of Records.**

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

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

- (b) **Microfilming or Optical Imaging of Records.** Local units of government may keep and preserve public records through the use of microfilm providing the microfilm or optical imaging meets the applicable standards in Sec. 16.612, Wis. Stats. Retention periods and estimated costs and benefits of converting records between media should be considered. After verification, paper records converted to microfilm or optical imaging should be destroyed. The retention periods identified in this Section apply to records in any media.
- (c) **Destruction After Request for Inspection.** No requested records may be destroyed until after the request is granted or sixty (60) days after the request is denied. If an action is commenced under Sec. 19.37, Wis. Stats., the requested record may not be destroyed until after a court order is issued and all appeals have been completed. [See Sec. 19.35(5), Wis. Stats.]
- (d) **Destruction Pending Litigation.** No record subject to pending litigation shall be destroyed until the litigation is resolved.
- (e) **Review and Approval By Public Records and Forms Board.** This Chapter and the retention periods of less than seven (7) years have been reviewed and approved by the Public Records and Forms Board.
- (f) **Legend.** The following terms shall be applicable in Sections 3-3-7 and 3-3-8:
  - (1) **Records Description.** Provides a brief description of the records. Group specific items such as forms into logical groups that have the same function or purpose.
  - (2) **Period of Retention.** Refers to the time that the identified records must be kept until destruction.

**CR** stands for creation which usually refers to receipt or creation of the record.

**FIS** stands for current fiscal year and the additional amount of time as indicated.

**EVT** stands for event and refers to an occurrence that starts the retention "clock ticking." Close of contract, termination of employees, and disposition of a case are common events.

**P** stands for permanent retention.

- (3) **Time.** Is expressed in years unless specifically identified as month or day.
- (4) **Authority.** Refers to any specific statutory, administrative rule, or specific regulation that determines retention of the record. In most cases this will be blank because units of government have discretion to establish a time period.
- (5) **SHSW Notify.** Refers to whether or not the State Historical Society of Wisconsin has waived the required statutory notification prior to destruction of records.

**W** means records are not historical and the required notification is waived.

**N** means the records may have secondary historical value and therefore SHSW notification is required on a case-by-case basis prior to destruction.

**N/A** means not applicable and refers to those circumstances where a local unit of government is retaining a record permanently.

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

(a) **Purpose; Authority.**

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

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

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

(d) **Financial and Other Municipal Records.** Pursuant to Sec. 19.21(5), Wis. Stats., City officers and employees may destroy financial and other municipal records for which they are the legal custodians and which are considered obsolete as provided in the *Wisconsin Municipal Records Schedule* and the State of Wisconsin's *General Records Schedules* and their successor schedules. Records maintained and subject to retention and destruction requirements include, but are not limited to, records of City appointed and elected officials; staff and employees; municipal department; commissions and committees; and contractors doing business with the City. These records include, but are not limited to, those which are developed and/or submitted to the City, or in the possession of the City, involving municipal management and administration; general municipal actions and functions; elections; fiscal affairs and revenue; public and protective services; public works; licensing; community development and land use; and any records of elected and appointed officials, staff, municipal bodies, commissions, and departments which may be created by the City in the future.

(e) **Digital or Electronic Records.** Pursuant to Sec. 19.21(c), Wis. Stats., records and documents of the City of Abbotsford which have been transferred entirely or created to



digital, optically scanned, electronic, or other approved alternate format shall be considered original records subject to all state and local retention and destruction requirements. Electronic and digital records, including emails, are considered to be public records.

- (f) **Limitations.** This Section shall not be interpreted or construed to authorize the destruction of any municipal record in advance of the pertinent retention period prescribed by the Wisconsin Statutes, Wisconsin Administrative Code, *Wisconsin Municipal Records Schedule* and Wisconsin's *General Records Schedules*.
- (g) **Notification to Wisconsin Historical Society.** Prior to the destruction of any public record as described in Sec. 19.21(4)(a)-(c), Wis. Stats., the City shall give written notice to the Wisconsin Historical Society sixty (60) days prior to such destruction unless this requirement is waived in the *Wisconsin Municipal Records Schedule*.

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

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

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

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

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



## Title 3 ► Chapter 4

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# Disposal of Lost, Abandoned and Surplus Property

**3-4-1** Disposal of Surplus 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 Abbotsford 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.

(b) **Determination of Surplus City Property (Major Items).**

- (1) Whenever an item of City property is determined to be surplus City of Abbotsford 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 Thousand Dollars (\$5,000.00), the Common Council shall determine whether or not the item is surplus

City property. If the Common Council determines the item is a surplus item, disposal may occur as prescribed in Subsection (c).

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

- (1) Whenever the Common Council determines under Subsection (b) that an item of property is surplus City property, it shall dispose of such property as it determines, generally as prescribed below.
- (2) Whenever the fair market value of an item is more than Five Thousand Dollars (\$5,000.00) and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, or the Administrator-Clerk-Treasurer has made such a determination for items with a value of less than Five Thousand Dollars (\$5,000.00), the Administrator-Clerk-Treasurer or supervisor responsible for the items shall dispose of the property by:
  - a. Donation to a nonprofit organization or governmental entity within the City of Abbotsford, Clark County or Marathon County, or to a governmental agency or school district; or
  - b. Public auction; or
  - c. Sale by sealed bid; or
  - d. Negotiated sale; or
  - e. As a trade-in.
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Common Council, upon the recommendation of the pertinent department head. 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 or legally posted.

(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 or its designees, as authorized above, may dispose of City property which is not surplus City property.
- (2) Whenever this Section provides for an auction or other disposition of any property, the Administrator-Clerk-Treasurer shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, how-

ever, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

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

- (a) **Definitions.** As used in this Section, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:
  - (1) **Abandoned Property.** Anything which is left on property belonging to the City of Abbotsford, under such circumstances and for such a time that it appears that the owner does not have any plan to claim it. Abandoned motor vehicles shall be excluded from this definition and shall continue to be disposed of according to Title 10, Chapter 5 of this Code of Ordinances.
  - (2) **City.** The City of Abbotsford, Wisconsin.
- (b) **Exclusions.** The provisions of this Section do not apply to cash, to abandoned motor vehicles for which a separate procedure is established in Title 10, Chapter 5 of this Code, or to any deposit or trust fund placed in the custody of the City of Abbotsford or with any City officer.
- (c) **City Custody of Lost or Abandoned Property.**
  - (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the City of Abbotsford or law enforcement authorities by citizens shall be disposed of according to this Section.
  - (2) Lost and abandoned property will be examined by City or law enforcement authorities for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the City or law enforcement authorities to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by City or law enforcement authorities.
  - (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 City or law enforcement authorities 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 City or law enforcement authorities, unless that person receives a written receipt signed by the law enforcement officer, a copy of which shall remain with the law enforcement officer.
- (d) **Disposal Procedures.**
  - (1) **Classes of Property.** All property of value 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 or other means, but may become the property of the City of Abbotsford.

- a. ***Vehicles.*** Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, of this Code of Ordinances.
  - b. ***Intoxicating Liquor and Fermented Malt Beverages.*** Intoxicating liquor and fermented malt beverages shall be destroyed.
  - c. ***Firearms, Ammunition and Explosives.*** All firearms or ammunition shall be disposed of according to the provisions of Sec. 968.20, Wis. Stats. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Common Council, after consulting with law enforcement authorities, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
  - d. ***Other Property with a Fair Market Value of One Hundred Dollars (\$100.00) or Less.*** An item of property with a fair market value of One Hundred Dollars (\$100.00) or less shall be destroyed or sold at public auction. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.
  - e. ***Other Property with a Fair Market Value of Over One Hundred Dollars (\$100.00).*** An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction or by sealed bid.
  - f. ***Illegal property.*** Property which cannot be legally possessed shall be destroyed.
- (2) ***Disposal Determination; Disposal by Auction or Sealed Bid.***
- a. If the property is of no or nominal value, it shall be disposed of in the manner provided for disposal of trash and garbage.
  - b. If the property appears to have value and the same remains unclaimed for a period of thirty (30) days after the taking of the possession of the property, it shall be disposed of by any means to be determined in the best interest of the City. If the property is not disposed of in a sale, auction or invitation to bid open to the public, the City shall maintain an inventory of such property, including a record of the date and method of disposal, the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than two (2) years from the disposal of the property.
  - c. 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 as-is condition to the highest bidder. No sale or auction shall occur until the Common Council has determined that the property has no value to any probable investigation or legal proceeding. The department head or supervisor 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.

- d. 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 City for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he/she may claim ownership of said property. The Common Council 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/her 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:* Sec. 66.0139, Wis. Stats.





## Title 3 ► Chapter 4

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# 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 Abbotsford 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.

(b) **Determination of Surplus City Property (Major Items).**

- (1) Whenever an item of City property is determined to be surplus City of Abbotsford 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 Thousand Dollars (\$5,000.00), the Common Council shall determine whether or not the item is surplus

City property. If the Common Council determines the item is a surplus item, disposal may occur as prescribed in Subsection (c).

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

- (1) Whenever the Common Council determines under Subsection (b) that an item of property is surplus City property, it shall dispose of such property as it determines, generally as prescribed below.
- (2) Whenever the fair market value of an item is more than Five Thousand Dollars (\$5,000.00) and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, or the Administrator-Clerk-Treasurer has made such a determination for items with a value of less than Five Thousand Dollars (\$5,000.00), the Administrator-Clerk-Treasurer or supervisor responsible for the items shall dispose of the property by:
  - a. Donation to a nonprofit organization or governmental entity within the City of Abbotsford, Clark County or Marathon County, or to a governmental agency or school district; or
  - b. Public auction; or
  - c. Sale by sealed bid; or
  - d. Negotiated sale; or
  - e. As a trade-in.
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Common Council, upon the recommendation of the pertinent department head. 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 or legally posted.

(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 or its designees, as authorized above, may dispose of City property which is not surplus City property.
- (2) Whenever this Section provides for an auction or other disposition of any property, the Administrator-Clerk-Treasurer shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, how-

ever, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

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

- (a) **Definitions.** As used in this Section, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:
  - (1) **Abandoned Property.** Anything which is left on property belonging to the City of Abbotsford, under such circumstances and for such a time that it appears that the owner does not have any plan to claim it. Abandoned motor vehicles shall be excluded from this definition and shall continue to be disposed of according to Title 10, Chapter 5 of this Code of Ordinances.
  - (2) **City.** The City of Abbotsford, Wisconsin.
- (b) **Exclusions.** The provisions of this Section do not apply to cash, to abandoned motor vehicles for which a separate procedure is established in Title 10, Chapter 5 of this Code, or to any deposit or trust fund placed in the custody of the City of Abbotsford or with any City officer.
- (c) **City Custody of Lost or Abandoned Property.**
  - (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the City of Abbotsford or law enforcement authorities by citizens shall be disposed of according to this Section.
  - (2) Lost and abandoned property will be examined by City or law enforcement authorities for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the City or law enforcement authorities to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by City or law enforcement authorities.
  - (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 City or law enforcement authorities 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 City or law enforcement authorities, unless that person receives a written receipt signed by the law enforcement officer, a copy of which shall remain with the law enforcement officer.
- (d) **Disposal Procedures.**
  - (1) **Classes of Property.** All property of value 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 or other means, but may become the property of the City of Abbotsford.

- a. ***Vehicles.*** Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, of this Code of Ordinances.
  - b. ***Intoxicating Liquor and Fermented Malt Beverages.*** Intoxicating liquor and fermented malt beverages shall be destroyed.
  - c. ***Firearms, Ammunition and Explosives.*** All firearms or ammunition shall be disposed of according to the provisions of Sec. 968.20, Wis. Stats. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Common Council, after consulting with law enforcement authorities, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
  - d. ***Other Property with a Fair Market Value of One Hundred Dollars (\$100.00) or Less.*** An item of property with a fair market value of One Hundred Dollars (\$100.00) or less shall be destroyed or sold at public auction. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.
  - e. ***Other Property with a Fair Market Value of Over One Hundred Dollars (\$100.00).*** An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction or by sealed bid.
  - f. ***Illegal property.*** Property which cannot be legally possessed shall be destroyed.
- (2) ***Disposal Determination; Disposal by Auction or Sealed Bid.***
- a. If the property is of no or nominal value, it shall be disposed of in the manner provided for disposal of trash and garbage.
  - b. If the property appears to have value and the same remains unclaimed for a period of thirty (30) days after the taking of the possession of the property, it shall be disposed of by any means to be determined in the best interest of the City. If the property is not disposed of in a sale, auction or invitation to bid open to the public, the City shall maintain an inventory of such property, including a record of the date and method of disposal, the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than two (2) years from the disposal of the property.
  - c. 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 as-is condition to the highest bidder. No sale or auction shall occur until the Common Council has determined that the property has no value to any probable investigation or legal proceeding. The department head or supervisor 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.

- d. 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 City for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he/she may claim ownership of said property. The Common Council 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/her 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:* Sec. 66.0139, Wis. Stats.

