

TITLE 3

Finance and Public Records

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CHAPTER 1

Finance

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SEC. 3-1-1 PREPARATION OF TAX ROLL AND TAX COLLECTIONS.

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

State Law Reference: Sections 70.65 and 74.08, Wis. Stats.

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

- (a) **Bond Eliminated.** The Village of Colfax elects not to give the bond on the Village Clerk-Treasurer, in his capacity as Treasurer, as provided for by Section 70.67(1), Wis. Stats.

- (b) **Village Liable for Default of Treasurer.** Pursuant to Section 70.67(2), Wis. Stats., the Village shall be obligated to pay, in case the Village Clerk-Treasurer acting as Treasurer shall fail to do so, all state and county taxes required by law to be paid by such Treasurer to the County Treasurer.

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

SEC. 3-1-3 VILLAGE BUDGET.

- (a) **Departmental Estimates.** When requested by the Village Clerk-Treasurer, each officer, department and committee shall annually file with the Village Clerk-Treasurer an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Village Clerk-Treasurer and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.
- (b) **Consideration of Estimates.** The Village Board shall consider such departmental estimates in consultation with the department head and develop a budget amount for such department or activity.
- (c) **Form of Proposed Budget.**
- (1) The actual expenditures of each department and activity for the expired portion of the current year, and last preceding fiscal year, and the estimated expense of conducting each department and activity of the Village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
 - (2) An itemization of all anticipated income of the Village from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year.
 - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
 - (4) All existing indebtedness of the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
 - (5) Such other information as may be required by the Board and by State law.
- (d) **Copies of Budget.** The Village Clerk-Treasurer shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the Village Clerk-Treasurer during regular office hours.
- (e) **Report and Hearing.**
- (1) The Village Board shall make a report no later than the Board's first November meeting. The report shall include the estimated cost of improvements as well as the estimated cost of operating the various departments and all other costs, including interest charges, for which money will have to be raised by taxation during the following year.

- (2) A summary of such budget and notice of the time and place where such budget and detail is available for public inspection and notice of the time and place for holding the public hearing thereon, shall be published in a newspaper of general circulation in the Village or legally posted at least fifteen (15) days prior to the time of such public hearing.
- (3) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereon, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the Village shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time. Following the public hearing, the proposed appropriation ordinance may be changed or amended and shall take the same course in the Village Board as other ordinances.

SEC. 3-1-4 CHANGES IN BUDGET.

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

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

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

SEC. 3-1-6 FISCAL YEAR.

The calendar year shall be the fiscal year.

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

SEC. 3-1-7 PUBLIC DEPOSITORIES.

The Village Board shall designate the public depository or depositories within this State within which Village funds shall be deposited, and when the money is deposited in such depository in the name of the Village, Village officials and bondsman shall not be liable for such losses as are defined by State law. The interest arising therefrom

shall be paid into the Village treasury. Pursuant to state law, designated public depositories may be required to pledge U.S. Treasury notes equal in amount to any uninsured balance of the Village's deposit.

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

SEC. 3-1-8 CLAIMS AGAINST VILLAGE.

- (a) **Village Board to Audit Accounts.** Except as provided in Subsection (c), no account or demand against the Village shall be paid until it has been audited by the Village Board and an order drawn on the Village Clerk-Treasurer therefor. Every such account shall be itemized. Every such account or demand allowed in whole or in part shall be filed by the Clerk-Treasurer, and those of each year shall be consecutively numbered and have endorsed thereon the number of the order issued in payment.
- (b) **Claims to Be Verified.** All accounts, demands or claims against the Village shall be verified by the claimant or proper official.
- (c) **Payment of Regular Wages or Salaries.** Regular wages or salaries of Village officers and employees shall be paid by payroll, verified by the proper Village official, department head, board or commission and filed with the Village Clerk-Treasurer in time for payment on the regular pay day.

State Law Reference: Sec. 61.51, Wis. Stats.

SEC. 3-1-9 DISBURSEMENT AND INVESTMENT OF FUNDS.

- (a) **Wisconsin Statutes Adopted.**
 - (1) The statutory provisions set forth in Section 66.044 and 219.05, Wis. Stats., are hereby adopted and by reference made a part of this Chapter as if fully set forth herein, except that claims for the expenses in Subsection (a)(2) shall be the only claims which may be approved for payment by the Clerk-Treasurer.
 - (2) Disbursement from public depositories shall be made by check as approved by the Village Clerk-Treasurer for the following expenses: payroll, insurance premiums, retirement contributions, withholding tax deposits, sales tax deposits, overpayment refunds, payments to others from employee deductions, reimbursement of petty cash, tax settlements, bond transfers to other units of government, training fees or other claims approved by department heads to avoid service and/or interest charges and license fees.
 - (3) Claims involving service, materials or fees not covered in Subsection (a)(2) shall be referred to the Village Board, or designated committee thereof,
- (b) **Investment of Idle Funds.**
 - (1) Responsibility for deposit and/or transfer of funds for short-term investment of idle funds of the Village as they are available from time to time shall be at the discretion of the Village Clerk-Treasurer.
 - (2) Short-term investment is defined as one (1) year or less.
 - (3) Transfer of funds shall be made at the direction of the Village Clerk-Treasurer in person or by telephone or wire without signature of any other Village official.

- (4) The Village Clerk-Treasurer shall determine the amount of deposit and/or investment, subject to available funds, taking into consideration the projected revenue and expense during the term of any investment to maintain an adequate cash flow.
- (5) Funds may be invested in any institution designated as a public depository approved by the Village Board and the rate of interest that may be earned upon such investments shall be primary criteria for investment in a particular institution.
- (6) The Clerk-Treasurer shall keep funds in any one (1) institution below Five Hundred Thousand Dollars (\$500,000) to insure coverage for losses due to failure of an institution, except that during peak periods of revenue, receipts in excess of Five Hundred Thousand Dollars (\$500,000) may be deposited in institutions for a period not to exceed thirty (30) days.

State Law Reference: Section 66.044 and 219.05, Wis. Stats.

SEC. 3-1-10 RECEIVING MONEY; RECEIPT FOR SAME.

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

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

SEC. 3-1-11 STATEMENT OF REAL PROPERTY STATUS.

The Village Clerk-Treasurer and his designees are authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water and sewer bills, current water and sewer bills, contemplated improvements, outstanding citations on building code violations and similar information. Any such information sought shall be provided to the person requesting it on said form. Requests for Statements of Real Property Status shall be made to the Village Clerk-Treasurer a minimum of one (1) business day in advance. A fee of Five Dollars (\$5.00) shall be charged for compiling this information.

SEC. 3-1-12 BIDDING PROCEDURES.

- (a) **Adoption of City Bidding Procedures.** Pursuant to Section 61.56, Wis. Stats., the Village of Colfax does hereby provide that as a complete alternative to the requirements of Sections 61.54, 61.55, and 66.29 of the Wisconsin Statutes and in

lieu thereof, that the provisions of Section 62.15, Wis. Stats., shall be applicable to all Village contracts for public construction over Ten Thousand Dollars (\$10,000.00). The authority vested in the Board of Public Works by Section 62.15 of the Wisconsin Statutes shall be exercised by the Village Board or by a committee designated by the Village Board.

- (b) **Construction by the Village.** Any class of public construction may be done directly by the Village without submitting the same for bids provided that the same is authorized by a vote of three-fourths (3/4) of all members of the Village Board.

State Law Reference: Sections 61.54, 61.55 and 62.15, Wis. Stats.

SEC. 3-1-13 BID SOLICITATION PROCEDURES.

(a) **Definitions.**

- (1) **Verbal Quotation Form.** The Village solicits verbal quotations on items the Village purchases, which are less than Ten Thousand Dollars (\$10,000.00). The results of the verbal quotations are recorded on a memorandum of verbal quotation form.
- (2) **Informal Quotation.** An informal quotation is a written request for quotation sent to vendors. The informal quotation is used for the purchase of goods and services in an amount less than Ten Thousand Dollars (\$10,000.00).
- (3) **Formal Bid.** The formal bid procedure is used for purchasing goods and services in an amount of Ten Thousand Dollars (\$10,000.00) and higher, and in some instances in amounts less than this amount. The formal bid procedure requires a legal public notice and contains detailed, written specifications regarding the goods and services to be purchased, and a number of specific conditions associated with the purchase.

(b) **Bid Solicitation.**

- (1) Competitive bids or quotations shall 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 Ten Thousand Dollars (\$10,000.00) shall be made by written quotation, telephone quotation or formal bid. Purchases of Ten Thousand Dollars (\$10,000.00) and over, pursuant to Subsection (a) above, shall be made by formal bid unless exempted from it by action of the Village Board.
- (2) Verbal quotations for goods and services 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 applicable department heads and returned to and analyzed by the applicable department heads. Informal requests for written quotations may also be solicited by telephone. Vendors

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

SEC. 3-1-14 ACCOUNTS RECEIVABLE BILLING PROCEDURES.

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

SEC. 3-1-15 ANNUAL AUDITS.

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

SEC. 3-1-16 LIABILITY OF THE VILLAGE FOR ACTS OF AGENTS.

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

SEC. 3-1-17 DELINQUENT UTILITY CHARGES.

- (a) **Findings.** The Village Board hereby finds that collection of charges for utility services supplied by the Village is a significant problem affecting the financial well-being of the utilities. As such, it is a matter of the local affairs and government of the Village of Colfax. Pursuant to the home rule powers of the Village, the Village has determined that a method for the collection of delinquent utility charges, as set forth herein, should be established.
- (b) **Election.** The Village hereby makes the election set forth in Sec. 66.01(4), Wis. Stats., and determines that Sections 66.069(1)(b) and 66.60(16), Wis. Stats., to the extent those statutes do not provide the Village with authority to place delinquent utility charges on the tax roll and only to that extent, shall not apply to the Village.
- (c) **Delinquent Charges to Become Lien.** Rates charges for service by Village utilities shall be considered delinquent as provided in this Section. Such delinquent charges shall be a lien upon the property served by the Utility and shall be levied by the Village Clerk-Treasurer as a tax against the property served. Proceedings for challenging and collecting general property taxes, including the sale and return of property for delinquent taxes, shall apply to said tax liens established under this Section, if the same are not paid within the time required by law for payment of taxes upon real estate.

CHAPTER 2

Special Assessments

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SEC. 3-2-1 VILLAGE BOARD MAY LEVY SPECIAL ASSESSMENTS.

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

State Law Reference: Sec. 66.62, Wis. Stats.

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

- (a) Prior to making any such special assessments, the Village Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under Section 3-2-5 of this Chapter and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.
- (b) The report required by Subsection (a) shall consist of:
 - (1) Preliminary or final plans and specifications.
 - (2) An estimate of the entire cost of the proposed work or improvement.

- (3) An estimate, as to each parcel of property affected, of:
 - a. The assessment of benefits to be levied.
 - b. The damages to be awarded for property taken or damaged.
 - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
- (4) A statement that the property against which the assessments are proposed is benefitted, where the work or improvements constitute an exercise of the police power. In such case the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
- (5) A copy of the report when completed shall be filed with the Village Clerk-Treasurer for public inspection.
- (c) When the Village Board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Sec. 66.60(3), Wis. Stats. and Subsections (a) and (b) above, shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

SEC. 3-2-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.

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

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.

If any property deemed 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 Village.

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

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

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

- (a) After the hearing, the Village Board may approve, disapprove, modify or re-refer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable assessment.
- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Village Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- (c)
 - (1) If the work or improvement has not been previously authorized or approved, the Village Board shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
 - (2) If the work or improvement has been approved by the Village Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Village Board shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The Village Clerk-Treasurer shall publish the final resolutions as required in Section 3-2-5 of this Chapter.
- (e) After the publication of the final resolution, any work or improvement provided for and not yet authorized, shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Section 66.60(12), Wis. Stats., or any other applicable provision of law.

SEC. 3-2-7 BOARD'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.

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

SEC. 3-2-8 WHERE COST OF IMPROVEMENT IS LESS THAN ASSESSMENT.

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

SEC. 3-2-9 APPEALED ASSESSMENTS PAYABLE WHEN DUE.

Pursuant to Subsection (12)(f) of Sec. 66.60, Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable and upon default in payment any such appeal shall be dismissed.

SEC. 3-2-10 SPECIAL ASSESSMENT A LIEN ON PROPERTY.

Pursuant to Subsection (13) of Sec. 66.60, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the Village. The Village Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Village Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

SEC. 3-2-11 SPECIAL CHARGES PERMISSIBLE.

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by the Village Board by allocating all or part of the cost of the property served. Such may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care or removal. The provision for notice of such charges shall be optional with the Village Board except that in the case of street, sidewalk, curb or gutter repair, twenty (20) days notice published in the Village newspaper, or by posting such notice in three (3) places in the Village and a copy of such notice mailed to every interested person whose post office address is known at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Village Board as to whether the service in question shall be performed. Amounts less than One Hundred Dollars (\$100.00) shall be paid in one (1) installment.
- (b) Such special charges shall not be payable in installments. If not paid within the period fixed by the Village Board, such delinquent charge shall become a lien as provided in Section 3-2-11 of this Chapter.
- (c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

State Law Reference: Sec. 66.60(16), Wis. Stats.

SEC. 3-2-12 MISCELLANEOUS PROVISIONS.

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

SEC. 3-2-13 SPECIAL ASSESSMENT B BONDS.

As an alternative to any other financing method, the Village Board may provide for the payment of the initial cost of any public improvement from the proceeds of special assessment "B" bonds issued under Sections 66.54(10) and (11), Wis. Stats. Special assessments to retire such bonds and pay the interest thereon shall be levied under Section 66.60, Wis. Stats., payable in such installments at a rate to be determined by the Board based upon borrowed money rates at the time of the special assessment.

CHAPTER 3

Public Records

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- 3-3-7 Destruction of Records
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SEC. 3-3-1 DEFINITIONS.

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

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

- (a) Except as provided under Section 3-3-7, each officer and employee of the Village shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her

office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

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

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

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

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

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

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

- (a) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.

- (d) A requester shall be permitted to use facilities comparable to those available to Village employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (f) A requester shall be charged a fee of twenty-five cents (25¢) to defray the cost of copying records.
 - (1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
 - (2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and video-tapes, shall be charged.
 - (3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
 - (4) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.
 - (5) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
 - (6) Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
 - (7) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Village Board.

SEC. 3-3-5 ACCESS PROCEDURES.

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

determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

- (c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

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

- (a) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
 - (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
 - (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
- (b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Village Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
 - (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
 - (2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
 - (3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any Village officer or employee, or the

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

SEC. 3-3-7 DESTRUCTION OF RECORDS.

- (a) Village officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Chapter 442 of the Wisconsin Statutes, but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:
 - (1) Bank statements, deposit books, slips and stubs.
 - (2) Bonds and coupons after maturity.
 - (3) Canceled checks, duplicates and check stubs.
 - (4) License and permit applications, stubs and duplicates.
 - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (6) Receipt forms.
 - (7) Special assessment records.
 - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) Village officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any

required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.

- (1) Contracts and papers relating thereto.
 - (2) Excavation permits.
 - (3) Inspection records.
- (c) Village officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.
- (1) Contracts and papers relating thereto.
 - (2) Correspondence and communications.
 - (3) Financial reports other than annual financial reports.
 - (4) Justice dockets.
 - (5) Oaths of office.
 - (6) Reports of boards, commissions, committees and officials duplicated in the Village Board proceedings.
 - (7) Election notices and proofs of publication.
 - (8) Canceled voter registration cards.
 - (9) Official bonds.
 - (10) Police records other than investigative records.
 - (11) Resolutions and petitions, providing the text of the same appears in the official Village minutes.
- (d) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to lesser time schedules as made and provided in Sec. 7.23, Wis. Stats.
- (e) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall be given the State Historical Society prior to the destruction of any record as provided by Sec. 19.21(4)(a), Wis. Stats.
- (f) Any tape recordings of a governmental meeting of the Village may be destroyed, erased or reused no sooner than ninety (90) days after the minutes of the meeting have been approved and posted/published, if the purpose of the recording was to make minutes of the meeting.

SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.

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

CHAPTER 4

Disposal of Lost, Abandoned and Surplus Property

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

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

(a) **Definitions.**

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

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

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

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

- (1) Whenever the Village Board determines that an item of property is surplus Village property, it shall dispose of such property as it determines.
- (2) Whenever the fair market value of an item is more than Five Hundred Dollars (\$500.00) and the Village Board has determined, pursuant to the previous Subsection, that the item is surplus Village property, the department head responsible for the items shall dispose of the property by:
 - a. Donation to a nonprofit organization within the Village or to a governmental agency; or
 - b. Public auction; or
 - c. Sale by sealed bid; or
 - d. Negotiated sale.
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Village Board. The

department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the city and the amount of the bid shall be forfeited to the Village. In the event no bids are received, the item shall be disposed of as directed by the Village Board.

- (4) No public auction or awarding of bids shall occur under this Chapter unless a description of the item to be sold and an advance notice of the time and place for such auction or bid submission is first published as a Class 2 notice in the official Village newspaper.
- (5) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Village Board has determined, pursuant to the previous Section, that it is surplus Village property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.
- (d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final.
- (e) **Authority to Dispose of Property.**
 - (1) Except for library materials used by the public library for lending purposes, only the Village Board may dispose of Village property which is not surplus Village property.
 - (2) Whenever this Section provides for an auction or other disposition of any property, the Village Board shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for Village labor and the use of Village property, do not exceed the payment received by the Village from the auction or sale of the property.

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

- (a) **Village Custody of Lost or Abandoned Property.**
 - (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
 - (2) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
 - (3) No Village employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
 - (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
 - (5) No Village employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the Village Clerk-Treasurer.
- (b) **Disposal Procedures.**
 - (1) Classes of Property. All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the Village shall be disposed of as follows,

except that if the property is usable for Village operations, the property need not be sold at auction, but may become the property of the Village.

- a. Vehicles: Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, of this Code of Ordinances.
- b. Intoxicating Liquor and Fermented Malt Beverages: Intoxicating liquor and fermented malt beverages shall be destroyed.
- c. Firearms, Ammunition and Explosives: Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriff's Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
- d. Other Property with a Fair Market Value of One Hundred Dollars (\$100.00) or Less: An item of property with a fair market value of One Hundred Dollars (\$100.00) or less shall be destroyed or sold at public auction. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.
- e. Other Property with a Fair Market Value of Over One Hundred Dollars (\$100.00): An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction or by sealed bid.
- f. Illegal property: Property which cannot be legally possessed shall be destroyed.

(2) Disposal by Auction or Sealed Bid.

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

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

provision shall not apply to any Village employee finding property in the regular course of his employment.

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

State Law Reference: Sec. 66.28, Wis. Stats.