

TITLE 3

FINANCE AND PUBLIC RECORDS

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CHAPTER 1

Finance

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SEC. 3-1-1 FISCAL MANAGEMENT.

The Town Board of the Town of Fond du Lac has the specific authority, powers and duties pursuant to Sections 60.10, 60.20, 60.22, 60.23, 60.40, 60.41, 60.42, 60.44, 60.45, 60.46, 60.47, 65.90, 66.0603, 66.0607, 66.0703, 74.12, Chapter 67 and 70, Wis. Stats., to manage, supervise and direct the fiscal operations of the Town of Fond du Lac and to develop, maintain and implement a fiscal management system for the Town.

SEC. 3-1-2 PREPARATION AND ADOPTION OF BUDGET.

- a) **Fiscal Year; Annual Budget.** The Town of Fond du Lac fiscal year is the calendar year. The Town budget shall be adopted annually.
- b) **Preparation.** The Town Board is responsible for preparation of the proposed budget required under Sec. 65.90, Wis. Stats. In preparing the budget, the Board may provide for assistance by any person.
- c) **Estimates of Budget.** Each elected officer and each appointed officer responsible for a department, office, special office, committee, commission, agency, board or other special government unit of the Town shall file with the Town Clerk, by a date established by the Clerk the following for their department, office, special office, committee, commission, agency, board or other special government unit of the Town.
 - 1) Prior years receipts, revenues, disbursements and expenditures.
 - 2) Current years receipts, revenues, disbursements and expenditures.
 - 3) Estimated receipts, revenues, disbursements and expenditures for next year.
- d) **Elements of Budget.** Each budget prepared by and approved by the Town Board shall include the following:
 - 1) All existing indebtedness.
 - 2) All anticipated revenue from all sources for ensuing year.
 - 3) All proposed appropriations for departments, committees, commissions and boards, active or reserve accounts for next year.
 - 4) All actual revenues and expenditures for preceding year.
 - 5) All actual revenue and expenditures for not less than six (6) months of current year.
 - 6) All estimated revenues and expenditures for the balance of the year.
 - 7) All anticipated unexpended or unappropriated balances and surpluses.
 - 8) Such other information may be required by the Board and state law.
- e) **Elements in Budget Summary.** Each budget summary prepared by and approved by the Board shall include the following:
 - 1) All expenditures by major expenditure category for the proposed budget, the budget in effect and the budget of the preceding year.
 - 2) All revenues by major revenue service for the proposed budget, the budget in effect and the budget of the preceding year.
 - 3) Any financial source and use not identified in Subsection (e)(1) and (2) above.

- 4) All beginning and year end balances for the proposed budget, the budget in effect and the budget of the preceding year.
- f) **Copies of Budget.** The Town shall provide a reasonable number of copies of the budget for distribution to citizens.
- g) **Hearing.** The Board shall conduct the budget hearing required under Sec. 65.90, Wis. Stats.
- (h) **Adoption.** The Board shall adopt the Town budget. The Town meeting may either retain authority to approve any tax levy needed to support spending approved by the Board or may delegate the authority to approve a tax levy to the Board.
- (i) **Amendment.** The Town budget may be amended by the Board under Sec. 65.90(5) Wis. Stats.

SEC. 3-1-3 CHANGES IN BUDGET.

The adopted budget may not be changed after approval except upon the recommendation of the Chairperson and upon a roll call two-thirds (2/3) vote of the entire membership of the Town Board. Notice of such change shall be given by publication or posted within ten (10) days thereafter in the official Town newspaper.

SEC 3-1-4 TOWN FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATION.

No money may be drawn from the Town or any obligation for the expenditure of money be incurred except in conformance with the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-3 of this Chapter. At the close of each fiscal year, any unencumbered balance of any appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

SEC. 3-1-5 ANNUAL FINANCIAL STATEMENT.

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

SEC. 3-1-6 FINANCE BOOK.

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

SEC. 3-1-7 FINANCIAL AUDITS.

The Town Board shall provide for financial audits under Sec. 66.0605, Wis. Stats.

SEC. 3-1-8 CLAIMS AGAINST TOWN.

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

SEC. 3-1-9 DISBURSEMENTS FROM TOWN TREASURY.

Disbursements from the Town treasury shall be made under Sec. 66.0607, Wis. Stats. No claim, account or demand for payment against the Town shall be paid until a voucher has been filed with or prepared by the Town Clerk.

SEC. 3-1-10 FACSIMILE SIGNATURES.

In lieu of the personal signatures of the Town Clerk, Town Treasurer and Chairperson on checks their facsimile signatures may be used if approved by the Town Board, but the use of a facsimile signature does not relieve the official from any liability to which he/she is otherwise subject, including the unauthorized use thereof.

SEC. 3-1-11 PUBLIC DEPOSITORY.

The Town Board shall designate one (1) or more public depositories for depositing funds of the Town. These public depositories shall be approved financial institutions under Sec. 66.0603, Wis. Stats. The Treasurer and the Treasurer's surety are not liable for loss, as defined under Sec. 34.01(6), Wis. Stats., for money deposited in the name of the Town in a designated public depository. Interest accruing from Town money in a public depository shall be credited to the Town.

SEC. 3-1-12 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.

- a) The Town Treasurer, in cooperation with the Town Board, may invest any Town long-term funds and temporary funds not immediately needed, pursuant to Sections 66.0603 and 219.05, Wis. Stats.
- b) The Board and the Treasurer shall use the following criteria in determining the financial options available for investing the financial assets of the Town:
 - 1) The safety of the investment.

- 2) The maturity of the investment.
- 3) The liquidity of the investment.
- 4) The yield of the investment.
- 5) The other services available to the Town with the investment.

SEC. 3-1-13 PUBLIC CONTRACTS AND COMPETITIVE BIDDING.

a) **Definitions.** In this Section:

- 1) “Public contract” means a contract for the construction, execution, repair, remodeling or improvement of any public work or building or for the furnishing of materials or supplies, with an estimated cost greater than Fifteen Thousand Dollars (\$15,000.00).
- 2) “Responsible bidder” means a person who, in the judgment of the Town Board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.

b) **Advertisement for Bids.** Except as provided in Subsections (d) and (e), the Town may not enter into a public contract unless the Town Board, or a Town official or employee designated by the Town Board, advertises for proposals to perform the terms of the public contract by publishing a Class 2 notice under Ch. 985, Wis. Stats. The Town Board may provide for additional means of advertising for bids. Pursuant to Subsection (a)(1) above, this advertising requirement does not apply to the purchase of equipment; it applies only to the purchase of materials or supplies expected to cost more than Fifteen Thousand Dollars (\$15,000.00).

c) **Contracts to Lowest Responsible Bidder.** The Town Board shall let a public contract for which advertising for proposals is required under Subsection (b) to the lowest responsible bidder. Section 66.29, Wis. Stats., applies to public contracts let under this Section.

d) **Contracts with Governmental Entities.** This Section does not apply to public contracts entered into by a town with a municipality, as defined under Sec. 66.0301, Wis. Stats. Municipality, for this Section is defined as the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, metropolitan sewerage district, sewer utility district, water utility district, mosquito control district, municipal electric company, county or city transit commission or regional planning commission.

e) **Exception for Emergencies.** Sec. 60.47(5) Wis. Stats., and this Section are optional with respect to public contracts for the repair and construction of public facilities when damage or threatened damage to the facility creates an emergency, as declared by resolution of the Town Board, that endangers the public health or welfare of the Town. This Subsection does not apply if the Town Board declares that the emergency no longer exists.

f) **Application to Work by the Town.** This Section does not apply to any public work performed directly by the Town.

SEC. 3-1-14 RECEIVING MONEY; RECEIPT FOR SAME.

- a) The Town Treasurer shall not receive any money into the treasury from any source except for 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 Town Board.
- b) Upon the payment of any money (except for taxes as herein provided), the Treasurer shall make out a receipt in triplicate for the money so received. The Treasurer shall charge the amount thereof to the treasury and credit the proper account. The payment of the money to any receiving agent of the Town or to the Town or to the Treasurer shall be safeguarded in such manner as the Town Board shall direct.

SEC. 3-1-15 DUPLICATE TREASURER'S BOND ELIMINATED.

The Town of Fond du Lac elects not to give the bond on the Town Treasurer provided for by Sec. 70.67(1), Wis. Stats.

SEC. 3-1-16 STATEMENT OF REAL PROPERTY STATUS.

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

SEC. 3-1-17 LIABILITY OF THE TOWN FOR ACTS OF AGENTS.

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

SEC. 3-1-18 ACCOUNTS RECEIVABLE BILLING PROCEDURES.

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

SEC. 3-1-19 ANNUAL AUDITS.

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

SEC. 3-1-20 FEE FOR RETURNING CHECKS WITH INSUFFICIENT FUNDS; REIMBURSEMENT OF COLLECTION COSTS.

- a) There shall be a fee in accordance with the Town Board's current fee schedule for processing checks made payable to the Town that are returned because of insufficient funds.
- b) Collection costs and attorneys' fees shall be added to the principal amounts of unpaid bills owed to the Town that are placed with collection agencies or with the Town Attorney for collection.

SEC. 3-1-21 DELINQUENT PERSONAL PROPERTY TAXES.

- a) Pursuant to the authority of Sec. 74.80(2), Wis. Stats., the Town hereby imposes a penalty of one and one-half percent (1.5%) per month or fraction of a month, in addition to the interest prescribed by Sec. 74.80(1), Wis. Stats., on all overdue or delinquent personal property taxes retained for collection by the Town or eventually charged back to the Town by the County for purposes of collection under Sec. 74.31, Wis. Stats.
- b) This penalty of one and one-half percent (1.5%) per month or fraction of a month shall apply to any personal property taxes which are overdue or delinquent.

SEC. 3-1-22 POLICY FOR PUBLIC DEPOSITS AND INVESTMENTS.

- a) **Purpose.** It is in the interest of the Town to adopt a policy to insure continuous prudent deposits and investments of available Town funds. The Town Board establishes the following policies in the public interest for the deposit and investment of available Town funds.
- b) **Public Depositories.**
 - 1) Depositories. The Town Board shall, by ordinance or resolution, designate one (1) or more public depositories, organized and doing business under the laws of this state or federal law, and located in Wisconsin, in which the Town Treasurer shall deposit all public monies received by her/him.
 - 2) Limitations. The resolution or ordinance designating one (1) or more public depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of Sec. 66.0603, 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 Board.

- 3) Deposits. The Treasurer shall deposit public monies in the name of the Town in such public depositories designated by the Board and subject to the limitations hereinabove set forth.
- 4) Withdrawals. Withdrawals or disbursements by the Treasurer of monies deposited in a public depository shall be made as provided by Sections 66.0607 Wis. Stats. The 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(3m), Wis. Stats.

c) **Investments.**

- 1) Management. Subject to the provisions of this policy, the Treasurer shall have control of and discretion in the investment of all Town funds that are not immediately needed and are available for investment.
- 2) Intent. It is the intent of the Board that the Treasurer utilize a wise and prudent cash management system within the level of her/his expertise in such a manner to insure maximum investment earnings, while at the same time be able to respond promptly to authorized expenditures. Safety, liquidity and yield will be the prime requisites for the investment of Town funds.
- 3) Scope. This policy is limited in its application to funds which are not immediately needed and are available for investment. Other funds, the investment of which is subject to special federal and/or state laws and regulations, shall be invested in accordance with such laws and regulations to the extent they may be inconsistent with the provisions of this policy.
- 4) Responsibility. In exercising her/his investment responsibilities, the Treasurer shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, having the same resources, and familiar with like matters in the management of a similar activity, with a like purpose.
- 5) Investments. The investment of Town funds shall be in accordance with Sections 34.01(5) and 66.0603, Wis. Stats., as follows:
 - a. **Certificates of Deposit**. Certificates of deposit maturing within three (3) years or less from the date of investment issued by any banks, savings bank, trust company, savings and loan associations or credit unions which are authorized to transact business in the State of Wisconsin. The financial institutions must have been designated as a public depository of the Town by resolution or ordinance of the Town Board.
 - b. **Government Bonds and Securities**. Government bonds or securities which are issued or guaranteed as to principal and interest by the federal government, or by a board, commission, or other instrumentality of the federal government;
 - c. **Other Bonds**. Bonds or securities of any county, city, drainage district, technical college district, village, town or school district of this State; bonds issued by a local exposition district under subchapter II of Chapter 229; bonds issued by a local professional baseball park district under subchapter III of Chapter 229; bonds issued by a local professional football stadium district created under subchapter IV of Chapter 229; bonds issued by the University of Wisconsin Hospitals and Clinics Authority; bonds issued by a local cultural arts district under subchapter V of Chapter 229.

- d. **Government Investment Pool.** The Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.
- e. **Repurchase Agreements.** Repurchase agreements, in financial institutions authorized to conduct business in the State of Wisconsin. Repurchase agreements can only be made in securities which are direct obligations of or guaranteed as to principal and interest by the federal government; and, securities which are obligations of an agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. Securities purchased by a repurchase agreement must be placed in safekeeping in a segregated account in the Town's name at any designated public depository or approved financial institution.
- f. **Wisconsin Investment Trust.** Town funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.
- g. **Savings Deposit.** Town funds may be temporarily invested in savings deposits.
- h. **Securities.** Any security which matures or which may be tendered for purchase at the option of the holder within not more than seven (7) years of the date on which it is acquired, if it has a rating which is the highest or 2nd highest rating category assigned by Moody's Investors Service, Standard & Poor's Corporation or other similar nationally recognized rating agency, or if that security is senior to, or on a parity with, a security of the same issuer which has such a rating.
- i. **Other.** Any other investment vehicles authorized by law.

d) **Miscellaneous.**

- 1) Liability. Notwithstanding any other provision of law, the Town 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 Section 66.0603 and 66.0607, Wis. Stats. In case of conflict, the state laws shall prevail.

Cross-Reference: Section 3-1-12.

CHAPTER 2

Special Assessments

3-2-1	Town Board May Levy Special Assessments
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3-2-3	Costs That May Be Paid By Special Assessment
3-2-4	Exemptions; Deductions
3-2-5	Notice of Proposed or Approved Project
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3-2-10	Appealed Assessments Payable When Due
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3-2-12	Special Charges Permissible
3-2-13	Miscellaneous Provisions

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

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

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

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

- a. The assessment of benefits to be levied.
 - b. The damages to be awarded for property taken or damaged.
 - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
- 4) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimated required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
- (5) A copy of the report when completed shall be filed with the Town Clerk for public inspection.

SEC. 3-2-3 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 Town 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 Board.

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.

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

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

On the completion and filing of the report required in Section 3-2-2 (b) (5) of this Chapter, the Town Clerk shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Town Board or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be given either by publication in the official Town newspaper and a copy of said notice shall be mailed to each interested person whose post office address is known. The hearing shall

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

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

- a) After the hearing, the Town Board may approve, disapprove, modify or re-refer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable assessment.
- b) If an assessment is made against any property and an award of compensation or damage is made in favor of the property, the Town Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- c) (1) If the work or improvement has not been previously authorized or approved, the Town Board shall 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 Town Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Town Board shall, by resolution, confirm the report as made or modified and provide for payment in whole or in part by assessment.
- d) The Town Clerk shall publish the final resolutions as required in Section 3-2-5 of this Chapter.
- e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal under Section 66.0703(12), Wis. Stats., or any other applicable provision of law.

SEC. 3-2-7 COMBINED ASSESSMENTS.

If more than a single improvement is undertaken, the Board may combine the assessments as a single assessment on each property affected except that the property owner may object to any one (1) or more of said improvements.

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

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the 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 Clerk as provided in Section 3-2-6 of this Chapter.

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

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

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

Pursuant to Subsection (12)(f) of 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 SPECIAL ASSESSMENT A LIEN ON PROPERTY.

Pursuant to Subsection (13) of Section 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 Town or appropriate utility district. The Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

SEC. 3-2-12 SPECIAL CHARGES PERMISSIBLE.

- a) In addition to all other methods provided by law, special charges for current services may be imposed by the Town Board by allocating all or part of the cost of the property served. Such may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, including construction of storm water management facilities, removal and disposition of dead animals under 60.23(20), Wis. Stats., soil conservation work under section 92.11, Wis. Stats., snow removal under section 86.105, Wis. Stats., and tree care or removal. The provision for notice of such charges shall be optional with the Board except that, in the case of street, sidewalk, curb or gutter repair, twenty (20) days' notice of public hearing shall be published in the Town newspaper 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 the date, time and location of the hearing to be held by the Board as to whether the service in question shall be funded in whole or in part by a special charge.
- b) Special charges are not be payable in installments. If not paid within the period fixed by the Board, the charge is delinquent and the delinquent charge shall become a lien as provided in Section 3-2-11 of this Chapter.
- c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

SEC. 3-2-13 MISCELLANEOUS PROVISIONS.

- a) If any assessment or charge levied under this Chapter is invalid because such statutes are found to be unconstitutional, the Board may thereafter reassess such assessment or charge

pursuant to the provisions of any applicable law.

- b) The Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.
- c) Notwithstanding any other provision of law or this or other Ordinance or resolution, it is specifically intended and provided by this Chapter that the Town may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

CHAPTER 3

Public Records

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SEC. 3-3-1 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- a) “Authority” means any of the following Town entities having custody of a Town record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- b) “Custodian” means that officer, department head, division head or employee of the Town designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any Town records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
- c) “Record” 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) “Town” shall mean the Town of Fond du Lac, Fond du Lac County, Wisconsin, and its administrative subunits.

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

- a) **Authority.** The Town Board has the specific authority, powers and duties, pursuant to Sections 19.21, 19.22, 19.23, 19.31, 19.33, 19.34, 19.35, 19.36, 19.37, 19.84, 19.85, 60.22, and 60.83, Wis. Stats., to manage and direct certain affairs related to Town public records.

- b) **Public Record and Public Property Responsibilities.** All public records and public properties belonging to the Town, including records and public properties of officers, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town shall be safely kept, properly maintained and carefully preserved by the legal custodian thereof when:
- 1) These officers, employees or agents receive custody of the public records and public property from their predecessor or other persons.
 - 2) These public records and public properties are required by state law or by Town ordinance to be filed, deposited or kept in the offices of these officers, employees or agents.
 - 3) These public records and public properties are in lawful possession of these officers, employees or agents or the possession or control of which these officers, employees or agents may be lawfully entitled by state law or by Town.
- c) **Responsibility of Office.** Except as provided under Section 3-3-7, each officer and employee of the Town shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- d) **Responsibility Upon Expiration of Officer's Term.** Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Town Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

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

- a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.
- b) Unless otherwise prohibited by law, the Town Clerk or his/her designee shall act as legal custodian for all Town records, the Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Board, except that the Town Treasurer shall be the legal custodian for all records in his/her possession. In the event that the Clerk is not available, then the Clerk shall designate someone to act in his/her behalf as legal custodian.
- c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.

- e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subch. 11 of Ch. 19, Wis. Stats., and this Chapter. The designation of a legal custodian does not affect the powers and duties of an authority under this Section.

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

- a) Except as provided in Section 3-3-6, any person has a right to inspect a record and to make or receipt a copy of any record as provided in 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 Town employees to inspect, copy or abstract a record.
- e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged. No original public records of the Town shall be removed from the possession of the legal custodian.
- f) A requester shall be charged a fee .to defray the cost of locating and copying records as follows:
 - 1) The cost of photocopying shall be a per page fee in accordance with the Town Board's current fee schedule excluding accident reports. The Town may charge actual, necessary costs in duplicating or communicating requested records, including facsimile transmissions. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
 - 2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged. The Town is not required to purchase or lease for any requesting person any equipment or facilities for photocopying, photographing or other copying.
 - 3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- or video-tapes, shall be charged.
 - 4) If mailing or shipping is necessary, the actual 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. The Town will determine the cost of locating a record by using the hourly rate in accordance with the Board's current fee schedule for employees involved in attempting to locate the record.
 - 6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).

- 7) Elected and appointed officials of the Town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- 8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- g) Pursuant to 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. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Sections 3-3-4 through 3-3-6 of this Chapter. This Subsection does not apply to members of the Town Board.

SEC. 3-3-5 ACCESS PROCEDURES.

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

determination is subject to review upon petition for a writ of mandamus under 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 by 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, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and
 - 4) Pursuant to 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 Town Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the request record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
 - 1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
 - 2) Pursuant to 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 Town officer or employee, or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.
 - 4) Pursuant to 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 Town property, investing of Town funds or other Town 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 Town and any officer, agent or employee of the Town, when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agent or employees is or is likely to become involved, or communications which are privileged under 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 Town Attorney prior to releasing any such record and shall follow the guidance of the Town Attorney when separating out the exempt material. If, in the judgment of the custodian and the Town Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

SEC. 3-3-7 DESTRUCTION OF RECORDS.

- a) Town officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Chapter 442 of the Wisconsin Statutes but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.6 1(3)(e), Wis. Stats., and then after such shorter period:
 - 1) Bank statements, deposit books, Slips and stubs.
 - 2) Bonds and coupons after maturity.
 - 3) Canceled checks, duplicates and check stubs.
 - 4) License and permit applications, stubs and duplicates.
 - 5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - 6) Receipt forms.
 - 7) Special assessment records.
 - 8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- b) Town officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the

bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to 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 after two (2) years.

- 1) Contracts and papers relating thereto;
 - 2) Excavation permits;
 - 3) Inspection records.
- c) Town officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to 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 Town Board proceedings.
 - 7) Election notices and proofs of publication.
 - 8) Canceled voter registration cards.
 - 9) Official bonds.
 - 10) Police records other than investigative records.
 - 11) Resolutions and petitions.
- a) 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.

SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.

Any Town officer, or the director of any department or division of Town government may, subject to the approval of the Town Board, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in 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.

SEC. 3-3-9 TAPED RECORDS OF MEETINGS.

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

CHAPTER 4

Public Building Use

- 3-4-1 Authority
- 3-4-2 Public Building Access and Use

SEC. 3-4-1 AUTHORITY.

The Town Board has the specific authority, powers and duties pursuant to Sections 60.10, 60.22, and 101.13, Wis. Stats., and specific statutory authority, powers and duties with authorization of the Town meeting, to purchase, lease, construct and dispose buildings and property for the Town and to manage and direct certain affairs related to Town buildings and lands.

SEC. 3-4-2 PUBLIC BUILDING ACCESS AND USE.

- a) **Authority for Public Access.** The Town Board has the authority to establish dates and times for public access to the public buildings and public lands owned or leased by the Town. In addition, the Board has the authority to place additional restrictions on the use of the public buildings and public lands owned or leased by the Town.
- b) **Town Hall.**
 - 1) The Town Hall shall be open to the public as posted unless written notice to the contrary is posted at the usual and customary locations in the Town.
 - 2) The Town Hall shall be open to the public at other times with the approval of the Town Board. The use of the Town Hall may be provided for nongovernmental functions and events. The Board may charge a daily rental fee for such use to the responsible party. In addition to the rental fee, the Board may require that the responsible party provide a written indemnification and/or a policy of insurance to indemnify and hold harmless the Town from any costs, damages or expenses the Town may incur as a result of any injury to any person at or near the Town Hall.
 - 3) Town Hall users shall be required to pay to the Town a security deposit in an amount determined by resolution of Board, or its designee. Such security deposit may be refunded, in all or part, upon a finding that the premises were left in a satisfactory condition.
- c) **Litter and Discharge.**
 - 1) The Board does not permit the disposal or discharge of any litter, solid waste, hazardous waste, garbage or any other refuse in any Town public building or on the premises of any Town building except in disposal containers authorized by the Town.
 - 2) No person shall dispose or discharge the above noted waste in violation of this provision. Any person violating this provision shall immediately and totally reclaim and remove the disposed or discharged waste from the Town public building.

CHAPTER 5

Room Tax

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3-5-14	Interpretation

SEC. 3-5-1 DEFINITIONS.

As used in this Chapter:

- a) **Bed and Breakfast.** The meaning as defined in Sec. 254.61(1), Wis. Stats., insofar as applicable.
- b) **Gross Receipts.** The meaning as defined in Sec. 77.51(11)(a), (b), and (c), Wis. Stats., insofar as applicable.
- c) **Hotel or Motel.** A group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist homes or courts, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospitals, sanitariums, 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, and excepting mobile home parks.
- d) **Transient.** Any person residing for continuous period less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

SEC. 3-5-2 IMPOSITION OF ROOM TAX.

- a) Pursuant to Sec. 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators, bed

and breakfast operators, and other persons furnishing accommodations available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be capped at the rate of five percent (5%) of the gross receipts from such retail furnishings of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52(2)(a) 1., Wis. Stats.

- b) The Convention and Visitors Bureau is the principal organizational for the purpose of promotion of convention and tourist business and shall receive all moneys collected from the five percent (5%) room tax minus the Town's cost of administration. The organization shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the Town Board, at reasonable times.

SEC. 3-5-3 SCHEDULE OF PAYMENTS.

- a) This Section shall be administered by the Town Treasurer. The tax imposed for each calendar month is due and payable on the twentieth (20th) of the month next succeeding the calendar month for which imposed. A return shall be filed with the Town 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 return shall show the gross receipts of the preceding calendar month from such retail furnishings of rooms or lodging, illustrating and indicating thereon any exemption from an imposed room tax, billed to the State and/or its departments or agencies, the amount of taxes imposed for such period and such other information as the Treasurer deems necessary. Every person required to file such monthly return shall, with his/her first (1st) return, file an annual calendar year return. Such annual return shall be filed within thirty (30) days of the close of each such calendar year.
- b) The annual return shall summarize the monthly returns, reconcile and adjust for errors in the monthly returns, and shall contain certain such additional information as the Treasurer requires. Such annual returns shall be made on forms prescribed by the Treasurer. All such returns shall be signed by the person required to file a return or his/her duly authorized agent, but need not be verified by oath. The Treasurer may, for good cause, extend the time for billing any return, but in no event longer than one (1) month from the filing date.

SEC. 3-5-4 APPLICATIONS.

Every person furnishing rooms or lodging under Section 3-5-2(a) above, shall file an application for a permit for each place of business with the Town Treasurer. Every application for a permit shall be made upon a form prescribed by the Town Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his/her place of business, and such other information as the Town Treasurer requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay the Town Treasurer a fee for each permit. The application shall be accompanied by a check of One Hundred Dollars (\$100.00), payable to the Town Treasurer.

SEC. 3-5-5 ISSUANCE OF PERMIT.

- a) After compliance with Section 3-5-4 above by the applicant, the Treasurer shall grant and issue to each applicant a separate permit for each place of business within the Town. Such permit is not assignable and is valid only for the person in whose name it is issued and for the

transaction of business at the place designated therein. It shall be at all times be conspicuously displayed at the place for which issued. No innkeeper shall operate in a lodging facility without first obtaining a room tax permit for each lodging facility.

- b) Any person aggrieved by this Chapter may petition the Board for a determination of such grievance. The Board shall appoint three (3) disinterested persons to review and decide said grievance.

SEC. 3-5-6 SALE OF BUSINESS.

If any person liable for any amount of tax under this Chapter sells out his business or stock of goods or quits the business, the buyer in the transaction or new owner/operator will be responsible for all outstanding room tax payments. If a person subject to the tax imposed by this Chapter fails to withhold such amount of tax from the purchase price as required, he/she shall become personally liable for payment of the amount required to be withheld by him/her to the extent of the price of the accommodations valued in money.

SEC. 3-5-7 AUDITS.

- a) The Treasurer may, by office audit, determine the tax required to be paid to the Town or the refund due to any person under this Chapter. The 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 Treasurer's possession. One (1) or more such office audit determination may be made of the amount due for any one period or for more than one (1) period.
- b) The Treasurer may, by field audit, determine the tax required to be paid to the Town or the refund due to any person under this Chapter. The determination may be made upon the basis of facts contained in the return being audited or upon any other information with the Treasurer's possession. The Treasurer is authorized to examine and inspect the State sales tax records and memoranda of any person in order to verify the tax liability of that person or of another person.

SEC. 3-5-8 FAILURE TO FILE RETURN.

If any person fails to file a return as required by this Chapter, the Treasurer shall make an estimate of the amount of the gross receipts under Section 3-5-2 (a) above. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon the State sales tax records and memoranda stated herein. On the basis of this estimate the Treasurer shall compute and determine the amount required to be paid to the Town, adding to the sum thus arrived at a penalty equal to ten percent (10%) thereof. One (1) or more such determinations may be made for one (1) or more than one (1) period.

SEC. 3-5-9 INTEREST ON UNPAID TAXES.

All unpaid taxes under this Chapter shall bear interest at the statutory rate per annum from the due date of the return until the first (1st) day of the month following the month in which the tax is paid or deposited with the Town Treasurer. All refunded taxes shall bear interest at the statutory rate per annum from the due date of the return until the first (1st) day of the month

following the month in which said taxes are refunded. 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 computation.

SEC. 3-5-10 LATE FILING FEE.

Delinquent tax returns shall be subject to a late filing fee and the liquor license or other Town licenses will be withheld or not renewed until the room tax is paid. The tax imposed by this Section shall become delinquent if not paid:

- a) In the case of a timely filed return, with thirty (30) days after the due date of the return, or within thirty (30) days after the expiration of an extension period if one has been granted.
- b) In the case of no return filed or a return filed late, by the due date of a return.

SEC. 3-5-11 RECORDS.

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 for two (2) years in such form as the Town Treasurer requires.

SEC. 3-5-12 CONFIDENTIALITY.

- a) All tax returns, schedules, exhibits, writings or audit reports relative to such returns on file with the Treasurer are deemed to be confidential.
- b) No person having any administrative duty under this Chapter 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 particulars thereof set forth or disclosed in any return, or permit any return or copy thereof to be seen or examined by any person, as provided in Subsection (a) above.

SEC. 3-5-13 PENALTY.

Any person who is subject to the tax imposed by this Chapter who fails to obtain a permit as required by 3-5-4 above, or who fails or refuses to permit the inspection of his/her State sales tax records by the Treasurer after such inspection has been requested by the Treasurer, or who fails to file a return as provided in this Chapter, or who violated any other provision of this Chapter, shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), together with costs of prosecution, including reasonable attorneys' fees. Each day that such violation continues shall be considered a separate offense.

SEC. 3-5-14 INTERPRETATION.

The provisions of this Chapter shall be considered minimum requirements. Where the provisions of this Chapter impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this Chapter shall apply. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions, the provisions of the statute, other regulation, ordinance or covenant shall prevail.

CHAPTER 6

Impact Fees

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3-6-12	Zoning and Subdivision Regulations
3-6-13	Severability
3-6-14	Directive to Town Clerk and Town Attorney

3-6-1 PURPOSE.

The purpose of this title is to impose impact fees in accordance with Wis. Stat. § 66.0617, as a condition of an approval granted for the development of land, to be expended as capital costs by the Town in the provision of public facilities required to meet the demands for public services by the new development. The requirements of this title are in addition to the requirements of Title 14, entitled “Subdivision and Land Code,” and other applicable ordinances.

3-6-2 DEFINITIONS.

- a) “Capital costs” means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than ten percent (10%) of capital costs may consist of legal, engineering and design costs unless the Town demonstrates that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed ten percent (10%) of capital costs. “Capital costs” does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.
- b) “Town” means the Town of Fond du Lac, Wisconsin.
- c) “Developer” means a person, party, firm, corporation or other legal entity that constructs or creates a land development.
- d) “Development” means the real property which is the subject of land development.

- e) “Impact fees” means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by the Town under this title.
- f) “Land development” means the construction or modification of improvements to real property that creates additional residential dwelling units within the Town or that results in nonresidential uses that create a need for new, expanded or improved public facilities within the Town.
- g) “Public facilities” means highways, as defined in Wis. Stats. § 340.01(22) and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and land for athletic fields, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. “Public facilities” does not include facilities owned by a school district.
- h) “Service area” means a geographic area delineated by the Town within which there are public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the Town.

3-6-3 FACILITIES NEED ASSESSMENT

Fees established in this title are based upon public facilities need assessments, which are on file in the office of the Town Clerk and are available for inspection and/or copying in accordance with the State Public Records and Property Law, Subchapter II of Chapter 19, Wisconsin Statutes. The public facilities need assessments on file with the Town Clerk are hereby approved and incorporated by reference. The public facilities need assessments include:

- a) An inventory of existing public facilities, including an identification of any existing deficiencies in the quantity or quality of those public facilities for which an impact fee is imposed.
- b) An identification of the new public facilities, or improvements or expansions of existing public facilities, that will be required because of land development or which an impact fee is imposed. This identification may be based on explicitly identified service areas and service standards.
- c) A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities, including an estimate of the effect of recovering these capital costs through impact fees on the availability of affordable housing within the Town.

3-6-4 FINDING OF REASONABLENESS AND STATUTORY COMPLIANCE

Impact fees imposed by this title are found by the Town Board of the Town to be reasonable and in compliance with Wis. Stats. §66.0617, in that they:

- a) Bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
- b) Do not exceed the proportionate share of the capital costs that are required to serve land development, as compared to existing uses of land within the Town.
- c) Are based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
- d) Do not include amounts necessary to address existing deficiencies in public utilities.
- e) Do not prohibit or deter the construction of affordable housing with the Town.

3-6-5 IMPACT FEE REDUCTION

- a) Impact fees imposed by this title shall be reduced to the extent necessary:
 - 1) To compensate for other capital costs imposed by Town with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications under Chapter 236, Wisconsin Statutes, or any other items of value.
 - 2) To compensate for monies received from federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.
 - 3) The Town Board may, in its discretion, provide for an exemption form, or a reduction in the amount of impact fees imposed on a developer that provides low-cost housing in accordance with guidelines established by the Town Board, except no amount of an impact fee for which an exemption or reduction is provided under this section may be shifted to any other development in the land development in which the low-cost housing is located or to any other land development in the Town.
 - 4) New development in any tax incremental financing district, whether such district is now existing or created in the future, may be exempted from the imposition of impact fees for the reason that the Town desires to offer developers an incentive to create projects which will improve blighted neighborhoods and/or create opportunities for employment.

3-6-6 IMPOSITION OF IMPACT FEES

Impact fees shall be imposed by the Town Board on any land division, planned development, conditional use permit, site plan review or building permit for new construction on vacant land, the construction of additional buildings on developed land, and the expansion of existing buildings, at the time any approval or permit is granted which is located in an area on which an impact fee has been imposed. Notwithstanding the above, nothing herein required shall

provide for the payment of duplicate impact fees under circumstances where a land development is the subject of more than one approval or permit.

3-6-7 PAYMENT OF IMPACT FEES

A developer shall pay an impact fee for any new development (as distinguished from any alteration or addition to existing development) in full, to the Town Clerk or Treasurer at the time building permits are issued, or within fourteen (14) days of issuance.

3-6-8 IMPACT FEE REVENUES

Revenues from impact fees shall be placed in a segregated, interest-bearing account, and shall be accounted for separately from the other funds of Town. Impact fee revenues and interest earned on impact fee revenues may be expended only for capital costs for which the impact fees were imposed.

3-6-9 TIME FOR USE OF IMPACT FEES

Impact fees imposed and collected by Town under this title shall be used within seven years of the date of collection by the Town to pay the capital costs of all public facilities for which they were imposed, or in the alternative, refunded to the current owner of the real property with respect to which the impact fees were imposed. Said seven-year period of time is found to be reasonable by the Town Board in view of the appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed. The reasonable time period for expenditure may be extended for three years if the Town adopts a resolution stating that, due to extenuating circumstances or hardship meeting the seven-year limit, it needs an additional three years to use the impact fees that were collected. The resolution shall specify the extenuating circumstances or hardship that lead to the need to adopt a resolution under this paragraph.

Impact fees imposed and collected but not used within the time limits prescribed in this title shall be refunded to the current owner of the property.

3-6-10 IMPACT FEES ESTABLISHED

- A. Water Facilities
- B. Park and Recreation

3-6-11 APPEAL

A developer upon whom an impact fee is imposed shall have the right to contest the amount, collection or use of any impact fee imposed under this title by, within thirty (30) days following the imposition and payment of the impact fee, filing a written notice of appeal with the Town Clerk. Upon the filing of a timely appeal, the appeal shall be reviewed by the Town Plan Commission, which shall provide the developer with notice and an opportunity to be heard and

then make a recommendation to the Town Board. The Town Board shall make a determination on timely appeals within ninety (90) days of the date of the filing of the notice of appeal. The Town Board may affirm, negate or modify the impact fee.

If the developer wishes to appeal the decision of the Town Board the developer may commence an action in the Fond du Lac County Circuit Court seeking review of the Board's decision within 30 days after the date in which the Board adopted the resolution with respect to the appeal.

3-6-12 ZONING AND SUBDIVISION REGULATIONS

This title shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or the provision of public improvements subject to the zoning and subdivision regulations of the Town of Fond du Lac, which regulations shall be operative and remain in full force and effect without limitation with respect to such development. Except as required by Wis. Stat. § 66.55(6)(d), the impact fees imposed under this title are additional and supplemental to, and not in substitution of, any other requirements imposed by the Town on the development of land or the issuance of permits.

3-6-13 SEVERABILITY

If any section, phrase, sentence or portion of this title is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct and independent, and such holding shall not affect the validity of the remaining portions of this title.

3-6-14 DIRECTIVE TO TOWN CLERK AND TOWN ATTORNEY

The Town Clerk and Town Attorney are hereby authorized and directed to take all action necessary to incorporate this Ordinance into the Town of Fond du Lac Code of Ordinances.