

Chapter 3 – FINANCE

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3.01 (PREPARATION OF TAX ROLL AND TAX RECEIPTS)

(1) AGGREGATE TAX STATED ON ROLL. Pursuant to 60.65(2), Wis. Stats., the Clerk-Treasurer shall, in computing the tax roll, insert only the aggregate amount of State, County, school and local taxes in a single column in the roll opposite the parcel or tract of land against which the tax is levied, or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied.

(2) UNIFORM TAX BILLS AND RECEIPTS. The Clerk-Treasurer shall use uniform tax bills and receipts as prescribed by the Department of Revenue under 70.09(3) (a), Wis. Stats. Tax bills shall be mailed to taxpayers or designees and shall include all of the information required by 70.665, Wis. Stats.

3.02 (DUPLICATE TREASURER'S BOND ELIMINATED)

(1) BOND ELIMINATED. The City elects not to give the bond on the Clerk-Treasurer, provided for by 70.67(1), Wis. Stats.

(2) CITY LIABLE FOR DEFAULT OF CLERK-TREASURER. Pursuant to 70.67(2), Wis. Stats., the City shall pay, if the Clerk-Treasurer fails to do so, all State and County taxes required by law to be paid by such Clerk-Treasurer to the County Treasurer.

3.03 (FISCAL YEAR)

The calendar year shall be the fiscal year.

3.04 (BUDGET)

(1) DEPARTMENTAL ESTIMATES. Each year, each officer, department and committee shall timely file with the 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 condition and management of such fund, along with 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 Clerk-Treasurer and shall be designated as "Departmental Estimates" and shall be as nearly uniform as possible for the main division of all departments for incorporation into the budget document.

(2) PREPARATION PROCEDURE.

(a) Budget to Include. Each year the Finance Committee, with the assistance of the Clerk-Treasurer and the appropriate committees, officers and department heads shall prepare and submit to the Council a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall include the following information.

1. The expense of conducting each department and activity of the City for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommend as compared with appropriations for the current year.

2. An itemization of all anticipated income of the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last fiscal year 1988, State shared taxes and highway aids shall not be considered in the determination of anticipated income (see 70.665, Wis. Stats.).

3. An itemization of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.

4. Such other information as may be required by the Council and by State law.

(b) Copies for Citizens. The City shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(3) HEARING. The Finance Committee shall submit to the Council at the time the annual budget is submitted the draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation ordinance to the Council, it shall be deemed to have been regularly introduced therein. The Council shall hold a public hearing on the budget as required by law. Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the Council as other ordinances.

3.05 (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 by a 2/3 vote of the entire membership of the Council pursuant to 65.90(5), Wis. Stats. Notice of such transfer shall be given by publication within 10 days thereafter in the official City newspaper.

3.06 (CITY FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATIONS)

No money shall be drawn from the Treasury of the City nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by sec. 3.05 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 Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

3.07 (PAYMENT OF CLAIMS)¹

All claims shall be reviewed by the City Administrator and approved by the Common Council before payment, except that the City Administrator may without approval of the Common Council make such payments as may be necessary for bond and note payments, payrolls, all state and federal payroll withholdings, health and life insurance premiums, utility bills, interfund transfers, schooling expenses, entry and event fees, postage, COD deliveries, sales tax, reimbursements relative to collections, and any payments relative to programs that have prior approval of the Common Council.

3.08 (CITY PURCHASES)²

(1) PURCHASING AGENT. The City Administrator shall be the official Purchasing Agent for the City of Prairie du Chien.

(2) COUNCIL AUTHORIZATION. This ordinance authorizes the City Administrator and Mayor, jointly, to enter into contracts on behalf of the City of Prairie du Chien if the contracts meet the criteria of this ordinance. Contracts that do not meet the criteria set forth in this ordinance, and are not otherwise authorized by law, rule, or regulation, shall be authorized separately by the Common Council, by resolution or otherwise. Contracts that require a competitive selection process (such as request for bids and request for proposals) per state statute, this ordinance, or a requirement of a grant shall be authorized separately by the Common Council, by resolution or otherwise including public works contracts required to be bid pursuant to Wisconsin Statutes § 62.15 and § 66.0901. The form of all contracts shall be approved by the City Attorney prior to the City executing the contracts.

¹ Chapter 3.07 - Amended by Ordinance 98-05

² Chapter 3.08 - Amended by Ordinance 2016-14, 2011-21, 2011-15 and 98-06

(3) PUBLICATION. Unless additional public notification is required per state statute or a requirement of a grant, requests for bids and requests for proposals issued by the City shall require a Class 1 notice in the City's newspaper of record and posting at City Hall.

(4) GOODS AND SUPPLIES. The City may purchase supplies, equipment, goods, and materials ("goods") when the costs of the same have been included in the approved City budget.

(a) For purchases of less than \$10,000, the department head must obtain approval of the Mayor and City Administrator.

(b) For purchases between \$10,000 and \$25,000, the department head must obtain three (3) written price quotes for said goods and approval of the Mayor and City Administrator.

(c) For purchases of \$25,000 or greater, the contract shall be submitted to sealed public bidding and approved by the Common Council. The public bidding process may be waived by a $\frac{3}{4}$ vote of the Common Council upon the affirmative finding and documentation by the Common Council that such waiver is in the public interest. City purchases made through an existing state contract will not require public bidding if approved by the Mayor and City Administrator.

(d) Contracts through a sealed bid process shall be awarded to the lowest priced responsive and responsible bidder.

(5) SERVICES. The City may contract for the purchase of services when the costs of the same have been included in the approved City budget.

(a) For purchases of less than \$10,000, the department head must obtain approval of the Mayor and City Administrator.

(b) For purchases between \$10,000 and \$25,000, the department head must obtain three (3) written proposals and price quotes for said services and approval of the Mayor and City Administrator.

(c) For purchases of \$25,000 or greater or for service contracts lasting more than one year, the contract shall be submitted via a request for proposals process and approved by the Common Council. The request for proposals process may be waived by a $\frac{3}{4}$ vote of the Common Council upon the affirmative finding and documentation by the Common Council that such waiver is in the public interest. City purchases made through an existing state contract will not require a request for proposals process if approved by the Mayor and City Administrator.

(d) Contracts through a request for proposals process shall be awarded to the best overall value proposal with price not being the sole determining factor.

(6) PUBLIC WORKS. Pursuant to Wisconsin Statutes § 62.15, public construction projects with an estimated cost exceeding \$25,000 shall be publicly bid. If the estimated cost exceeds \$5,000 but is not greater than \$25,000, the City shall give a class I notice, under Wisconsin Statutes Chapter 985, of the proposed construction before the contract is executed.

(7) EMERGENCY. In the event of an emergency, with approval of the City Administrator, Mayor, and City Attorney, purchases may be made without a competitive selection process and without Council approval. However, the City Administrator shall promptly report any such purchases to the City Council.

(8) CONFLICT OF INTEREST. No person shall be involved in drafting of requests for bids or requests for proposals, in the review and recommendation of bids or proposals, in the selection of contractors, or in the approval of contracts if said person has any real or apparent conflict of interest. Potential conflicts of interests shall immediately be made known to the City Attorney who shall make a determination if the conflict disqualifies the individual from participating in the purchasing process in question.

3.09 (DELINQUENT PERSONAL PROPERTY TAXES)

Pursuant to 74.80(2)(a), Wis. Stats., the Council hereby imposes a penalty of 0.5% per month or fraction of a month, in addition to the interest imposed under 74.80(1), Wis. Stats., on any overdue or delinquent personal property taxes.

3.10 (ROOM TAX)³

(1) DEFINITIONS

(a) "Hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist home, tourist houses

³ Chapter 3.10 - Amended by Ordinance 2016-13, 2011-15 and 98-06

or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges, beds and breakfasts, and cabins and any other building or group of buildings in which accommodations are available to the public irrespective of whether membership is required for use of the accommodations, 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 association inures to the benefit of any private shareholder or individual and further excluding any accommodations located within a private residence not normally held out to use by the public and which are not used for public accommodations more than ten (10) days in any calendar year.

(b) "Gross receipts" means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

(c) "Tourism" means travel for recreational, business or educational purposes.

(d) "Tourism promotion and tourism development" means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under this section may be impose.

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motor coach groups.

2. Tourist informational services.

3. Tangible municipal development, including a convention center.

(e) "Transient" means any person, firm, corporation, or entity residing for a continuous period of less than one (1) month in a hotel, motel, or other furnished accommodations available to the public. Excluding from the definition of transient shall be all state employees or officials, employees of any state agency, officials or employees of any political subdivision of the state, and officials or employees of any municipal corporation provided, however, said individual(s) is/are acting within his/her/their employment or official capacity.

(2) TAX IMPOSED AND ALLOCATION.

(a) Pursuant to Wisconsin Statutes, Section 66.0615, or any amendments thereto, a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators, and other persons, firms, corporations, or entities furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at a rate of 6% of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Wisconsin Statutes, Section 77.52(2) (a) 1, now in effect or any amendments thereto. Further and notwithstanding any of the above and prior to the allocation of any of the above percentages each entity, individual, corporation, or partnership that falls under the preview of this Ordinance shall be entitled to take a 2% administrative fee from the moneys generated by the above referred to tax.

(b) Effective January 1, 2017, and thereafter until changed by action of the Common Council, the tax referenced above shall be at the rate of six (6) percent of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Wisconsin Statute, Section 75.52(2) (a) (1), now in effect or any amendments thereto. The proceeds of the room tax shall be apportioned 73% to Prairie du Chien Area Chamber of Commerce for tourism promotion and tourism development within the municipal limits of and outside the municipal limits of the City of Prairie du Chien and the remaining 27% of said proceeds shall remain with the City of Prairie du Chien.

(3) DISPOSITION OF EXCESS ROOM TAX. The Prairie du Chien Area Chamber of Commerce shall establish procedures and policies, to be provided to the City Administrator and approved by the City's Finance Committee, which allow for the expenditure of excess, unspent funds in the undesignated reserve accounts of the Chamber's Tourism Council. These policies and procedures shall establish a minimum amount or percentage of the annual budget to be reserved in the undesignated reserve accounts at the commencement of the fiscal year.

(4) ANNUAL REPORTS TO BE FILED WITH CITY.

(a) The Prairie du Chien Area Chamber of Commerce shall annually file with the City Administrator for the City of Prairie du Chien a list of hotels, motels, and sites and regularly update it for the purpose of maintaining an accurate list of facilities subject to this Ordinance.

(b) Effective January 1st 2017, the Prairie du Chien Area Chamber of Commerce shall annually file with the City Administrator for the City of Prairie du Chien all expenditures made with the proceeds of the room tax provided to them by the City of Prairie du Chien the previous year no later than March 1st of the reporting year, unless so authorized and directed by State Statute.

(5) CITY ADMINISTRATOR FOR CITY OF PRAIRIE DU CHIEN TO ADMINISTER. This Ordinance shall be administered by the City Administrator for the City of Prairie du Chien. The tax imposed is due and payable within fifteen (15) days of the end of each month. The return shall be filed with the City Administrator for the City of Prairie du Chien by those furnishing at retail such rooms, lodgings, or sites within the City on or before the same day on which such tax is due and payable upon a form approved by the City. Every person, firm, corporation, or entity required to file such monthly return shall also file an annual calendar return. Such annual return shall be filed within thirty (30) days of the end of the calendar year. The annual return shall summarize the monthly returns, reconcile and adjust for errors in the monthly returns, and shall contain certain additional information as the City Administrator for the City of Prairie du Chien requires. The City Administrator for the City of Prairie du Chien may for good cause extend the time for filing any return but in no event longer than one (1) month from filing date.

(5) APPLICATION. Every person, firm, corporation, or entity furnishing rooms, lodging, or sites hereunder shall file with the City Administrator for the City of Prairie du Chien an annual application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the City Administrator for the City of Prairie du Chien. At the time of making an application, the applicant shall pay the City Administrator for the City of Prairie du Chien a fee of \$10.00 for each permit. The permit is valid only as to the applicant and is not assignable or transferable. All new applications are due within five (5) days of first furnishing rooms, lodging, or sites. The application fee above referred to shall be paid on an annual basis for that period of time commencing July 1 to and including June 30.

(6) LIABILITY ON SALE OF BUSINESS. If any person, firm, corporation, or entity liable for any amount of tax under this Ordinance sells out his/her business or stock of goods or quits the business, his/her successors or assigns shall withhold a sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the City Administrator for the City of Prairie du Chien that he/she has paid all tax due hereunder or a certificate stating that no amount is due has been obtained. Any person, firm, corporation, or entity who by said purchase becomes subject to the tax imposed by this Ordinance 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.

(7) AUDITS. The City Administrator for the City of Prairie du Chien or his/her agent(s) may, by office audit, determine the tax required to be paid to the City or the refund due to any person, firm, corporation, or entity under this Ordinance. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any of the information within the City Administrator for the City of Prairie du Chien's possession. One (1) or more such office audit determinations may be made of the amount due for anyone or for more than one (1) period. Upon seven (7) days written notice, the City Administrator for the City of Prairie du Chien or his/her agent(s) may by field audit, determine the tax required to be paid to the City or the refund due to any person, firm, corporation, or entity under this Ordinance. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the City Administrator for the City of Prairie du Chien is authorized to examine and inspect the books, records, memoranda, and property of any person, firm, corporation, or entity in order to verify the tax liability of that person, firm, corporation, or entity or of another person, firm, corporation, or entity. Nothing herein shall prevent the City Administrator for the City of Prairie du Chien from making a determination of tax at any time.

(8) FAILURE TO FILE RETURN/FAILURE TO PAY TAX.

(a) If any person, firm, corporation, or entity fails to file a return as required by this section, the City Administrator for the City of Prairie du Chien shall determine the tax according to his/her best judgment on the basis of what amount of taxes the City determines to be due. The City Administrator for the City of Prairie du Chien shall compute and determine the amount required to be paid to the City and in addition add to said sum interest at the rate of 1% per month on the unpaid balance. In addition, all tax due hereunder shall become a lien on the real property from which said tax was derived.

(b) If any person, firm, corporation, entity that is subject to the tax imposed by this Ordinance fails to pay the tax due, such person, firm, corporation, or entity in addition to the tax due shall pay a penalty on said amount due that is the lesser of 25% of the tax due for the previous year or \$5,000.00. All taxes and penalties shall bear interest at the rate of 1% per month on the unpaid balance and an administrative fee of \$500.00 per quarter or part thereof shall be charged for that period of time that said tax and interest remains unpaid. All tax due hereunder shall become a lien on the real property from which said tax was derived. Further all tax, interest, penalties and quarterly administrative fees shall be paid prior to issuance or renewal of any transient room permit held or applied for by the person, firm, corporation, or entity owing said tax, interest, penalties, and quarterly administrative fees.

(c) Every person, firm, corporation, or entity liable for the tax imposed by this Ordinance shall keep or cause to be kept such records, receipts, invoices, and other pertinent papers in such form as the City Administrator for the City of Prairie du Chien requires.

(9) RETURNS CONFIDENTIAL.

(a) All returns, schedules, exhibits, writings, or audit reports relating to such returns on file with the City Administrator for the City of Prairie du Chien may be divulged only to the following and no others:

(1) The person, firm, corporation, or entity who filed the return.

(2) Officers, employees, or agents of the City Administrator for the City of Prairie du Chien.

(b) No person, firm, corporation, or entity having administrative duties under this Ordinance shall make known in any manner the business affairs, operations, or information obtained by an investigation of records of any person, firm, corporation, or entity on whom a tax is imposed by this Ordinance, 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, firm, corporation, or entity, except as provided herein. Any person in violation of this subsection shall be subject to penalty set forth below.

(10) PROMOTIONAL MATERIALS JOINTLY OWNED. All materials used for promotional and tourism-related activities, including intellectual property, shall be jointly owned by the City of Prairie du Chien and the Prairie du Chien Area Chamber of Commerce, and may be used by either party heretofore mentioned for promotional and tourism-related activities by either entity jointly or separately without required permission of the other party.

(11) PENALTY. In addition to the penalties above set forth, any person, firm, corporation, or entity subject to the tax imposed by this Ordinance who fails to obtain a permit as required hereunder or who fails or refuses to permit inspection of his/her records by the City Administrator for the City of Prairie du Chien after such inspection has been duly requested by the City Administrator for the City of Prairie du Chien, or who fails to file a return as provided by this Ordinance, or who violates any provision of this Ordinance, shall upon conviction thereof, and in addition, to any other penalty imposed hereunder, forfeit not less than \$20.00 nor more than \$500.00 and costs of prosecutions and in default of payment of such forfeiture. Each room or separately rented unit and each day or portion thereof that such violation continues is hereby deemed to constitute a separate offense. In addition, all money penalties herein prescribed shall become a lien on the real property which is required to be covered by permit hereunder.

3.11 (DISPOSITION OF SURPLUS MUNICIPAL PERSONAL PROPERTY)⁴

(1) AUTHORIZATION. The City Administrator is hereby granted the authority and responsibility to provide for the orderly disposition of surplus Municipal property. The authority and responsibility shall be exercised in the following manner:

(a) The City Administrator shall periodically prepare an itemized list of surplus Municipal personal property which is no longer useful or necessary for any current Municipal purpose. The list shall be in such form so as to separately list all items determined by the City Administrator, or his/her designee, to have a fair market value of more than three thousand dollars (\$3,000), and all items determined by the City Administrator, or his/her designee, to have a fair market value of three thousand dollars (\$3,000) or less.

(b) For those items on the surplus property list that have been determined to have a fair market value of three thousand dollars (\$3,000) or less, the City Administrator shall dispose of the property upon such terms and conditions as the City Administrator shall deem to be appropriate and in the best interests of the City.

(c) For those items on the surplus property list that have been determined to have a fair market value of more than three thousand dollars (\$3,000), the City Administrator shall submit a list of items to be disposed of to the Public Works Committee, who shall make a recommendation to the Common Council to act upon, for approval by motion, and the items shall be disposed of in one of the following ways:

1. Sealed bids after advertising at least one time in a newspaper of general circulation in the City or after advertising for at least one (1) week on the City's website.
2. Public auction after advertising at least one time in a newspaper of general circulation in the City or after advertising for one (1) week on the City's website.
3. Through a commercial or government auction website with simultaneous announcement in a newspaper of general circulation in the City or on the City's website.
4. Trade-in on the purchase of replacement product.

⁴ Chapter 3.11 - Created by Ordinance 2013-06

5. Pursuant to a sale or trade to another governmental agency as set forth in subsection (e) hereinafter.

(d) If, during preparation of the surplus Municipal personal property list, the City Administrator determines that certain Municipal personal property has little or no value, the City Administrator is authorized to cause such property to be properly recycled, disposed of or sold as scrap.

(e) The City Administrator may sell or trade surplus Municipal property to another governmental agency, without the necessity of advertising, bids or auction sale, pursuant to the following procedure:

1. If the estimated fair market value of the property is less than three thousand dollars (\$3,000), the City Administrator shall notify, in writing, the Public Works Committee of the property to be sold or traded, its estimated fair market value, and the consideration to be received for the property.

2. If the estimated fair market value of the property is greater than three thousand dollars (\$3,000), the Common Council must approve the transaction by motion.

(2) DONATION OF SURPLUS CITY PROPERTY. If the City Administrator is unable to sell surplus property after solicitation to the public, as referred to in this section, the City Administrator may give the surplus property to any not-for-profit corporation, organization, or entity, as determined by section 501(c) of the Internal Revenue Code, having its principal place of business, or doing a substantial amount of business, in the city, at no charge to the recipient. The City Administrator shall submit a list of items to be donated to the Public Works Committee, who shall make a recommendation to the Common Council to act upon, for approval by motion.

3.12 (PUBLIC SAFETY AND FIRE EMERGENCY RESPONSE COST RECOVERY)⁵

(1) INTENT. In order to protect the city from extraordinary expenses resulting from the utilization of city resources in response to certain public safety or fire emergency incidents, this section authorizes the imposition of charges to recover actual costs incurred by the city in responding to such incidents.

(2) DEFINITION. Unless the context specifically indicates otherwise, the meaning of the terms used in this section shall be as follows:

(a) "Assessable costs" mean those costs for services incurred by the city in connection with a response to a public safety or fire emergency incident, including, but not limited to, the actual labor and material costs of the city (including, without limitation, employee wages, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of transportation, costs of material disposal and costs of contracted labor) whether or not the services are provided by the city or by a third party on behalf of the city; service charges and interest; attorneys' fees, litigation costs and any costs, charges, fines or penalties to the city imposed by any court or state or federal governmental entities.

(b) "Bomb threats" mean the verbal or written threat of a bomb or other explosive device which if discharged as threatened would violate a federal, state or local law.

(c) "Emergency assistance" means emergency medical, public safety, police, fire and civil defense services.

(d) "Excessive requests for emergency assistance" mean any request for emergency assistance made to a particular location or premises if such location or premises has requested emergency assistance more than three (3) times in the preceding thirty (30) days.

(e) "Hazardous materials" mean those elements, substances, wastes or by-products, including, but not limited to, combustible liquid, flammable gas, explosives, flammables, poisons, organic peroxides, oxidizers, pyrophorics, unstable reactive matter, water reactive matter, petroleum products, anti-freeze, polychlorinated biphenyls and asbestos, which are or are potentially harmful to the environment or human or animal life, or which pose an unreasonable or imminent risk to life, health or safety of persons or property, or to the ecological balance of the environment as determined by the fire chief or the senior fire official of the city in charge at the scene.

(f) "Hazardous material incident or emergency" means any occurrence, incident, activity, accident or emergency where a release of hazardous materials occurs or is reasonably imminent and where the fire chief or his or her designee has so declared such activity, accident or emergency a hazardous material incident or emergency.

(g) "Illegal fire" means a fire set or determined to have been set in violation of a federal, state or local law and shall include an arson fire and a fire set in violation of a "no burning" ban or order. An illegal fire does not include an unintentional fire or fire caused by an act of God.

(h) "Motor vehicle" means any self-propelled or towed vehicle designed or used on the public streets, roads and highways to transport passengers or property which is required to be registered for use upon such public

⁵ Chapter 3.12 - Created by Ordinance 2013-08, Amended by Ordinance 2016-15

streets, roads and highways and for the purposes hereof all trailers or appurtenances attached to any motor vehicle.

(i) "Public safety or fire emergency incident" means excessive requests for emergency assistance, a false alarm, a hazardous material incident or emergency, an illegal fire, bomb threats, threats of harm to oneself or others, a structure demolition, or a utility line failure.

(j) "Release" means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment, including, but not limited, the air, soil, groundwater and surface water.

(k) "Responsible party" means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity responsible for a public safety or fire emergency incident or any owner, tenant, occupant or party in control of real and personal property from which, onto which or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

(l) "Structure demolition" means the tearing down of a structure damaged by fire which must in the opinion of the fire chief or his or her designee be promptly demolished following the fire to protect public safety.

(m) "Threats of harm to oneself or others" mean the verbal or written threat of physical harm to oneself or another or another's property which if carried out would be a violation of federal, state or local law.

(n) "Utility line failure" means the disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computer, cable television and stereo signals or electronic impulses), water or sanitary or storm sewage if the owner or party responsible for the maintenance of such utility line does not respond within one (1) hour to a request to repair or correct such failure.

(3) COST RECOVERY AUTHORIZATION AND PROCEDURE

(a) The city may recover all assessable costs in connection with a public safety or fire emergency incident from any or all responsible parties jointly or severally.

(b) The City Administrator or his or her designee shall determine the total assessable costs and shall in consultation with other city personnel involved in responding to a public safety or fire emergency incident determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determination, the following shall be considered:

1. The total assessable costs;
2. The risk the public safety or fire emergency incident imposed on the city, its residents and their property;
3. Whether there was any injury or damage to person or property;
4. Whether the public safety or fire emergency incident required evacuation;
5. The extent the public safety or fire emergency incident required an unusual or extraordinary use of city personnel and equipment, and;
6. Whether there was any damage to the environment.

The minimum assessable cost in connection with a public safety or fire emergency incident which is in violation of Subsection 2 (d) above shall be one hundred dollars (\$100) per violation or the costs determined with the aforementioned criteria, whichever is the greater amount.

(c) After consideration of the factors in (b) immediately above, the City Administrator may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability therefor or is legally at fault.

(d) If the City Administrator determines not to assess all or a part of assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to other parties.

(4) BILLING AND COLLECTION OF ASSESSABLE COST. After determining to assess assessable costs against a responsible party, the city treasurer shall mail an itemized invoice to the responsible party at its last known address. Such invoice shall be due and payable within thirty (30) days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal to one percent (1%) per month or fraction thereof that the amount due and any previously imposed late payment fee remains unpaid. If a responsible party shall appeal assessable costs pursuant to section 5 hereof, such costs, if upheld, in whole or in part, shall be due and payable thirty (30) days from the date of determination of the appeal and any late payment fees shall apply thereafter.

(5) PROCEDURE FOR APPEALING ASSESSABLE COSTS. Any responsible party who receives an invoice for assessable costs shall have an opportunity to meet with the City Administrator or his or her designee to request a modification of assessable costs. The responsible party shall request in writing such meeting within seven (7)

calendar days of the date of the invoice assessing the assessable costs. If after meeting with the City Administrator or his or her designee the responsible party is still not satisfied, he or she may request an opportunity to appear before the Finance Committee to further request a modification of assessable costs. A responsible party who desires to appear before the Finance Committee must first meet with the City Administrator or his or her designee as provided above and shall file a written request to appear before the Finance Committee with the City Administrator within seven (7) calendar days of the date of the meeting with the City Administrator. Upon receipt of such request, the City Administrator will place the responsible party on the agenda of the next regularly scheduled Finance Committee meeting. The Finance Committee shall make a recommendation to the Common Council for their next regularly scheduled meeting. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the assessed costs should be modified. Any reason, basis or argument for modification of assessable costs not set forth in the request to appear shall be deemed waived by the responsible party. Failure to timely file a written request to appear shall constitute a waiver of the responsible party's right to appear before the Finance Committee and Common Council; and shall further constitute the responsible party's agreement to pay the assessable costs invoiced. After a responsible party has been given an opportunity to appear before it, the Common Council shall promptly determine whether to confirm, modify or void the payment of assessable costs invoiced.

(6) **ASSESSABLE COSTS A LIEN UPON PROPERTY.** Assessable costs assessed against a responsible party not paid when due, including late payment fees, shall constitute a lien upon the real property of the responsible party in the city, from which, upon which or related to which the public safety or fire emergency incident occurred. Such lien shall be of the same character and effect as the lien created by city charter for city real property taxes and shall include accrued interest and penalties. The City Clerk shall on November 15th of each year, certify to the Crawford County tax lister the fact that such special charges are delinquent and unpaid. The tax lister shall then enter the special charges on the next general tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes.

(7) **REMEDIES**

(a) In addition to the remedy set forth in Section 6 above, the city shall be entitled to pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction as permitted by law to collect assessable costs from a responsible party.

(b) This section shall not supersede Chapter 4.10 (False Security Alarms Prohibited), Chapter 5.17 (Fire Suppression), Chapter 5.19 (False Fire Alarms Prohibited), Chapter 9.17 (Accidental Spills or Hazardous or Detrimental Substances) and Chapter 10.11 (Cleanup of Clandestine Drug Lab Sites and Chemical Dump Sites) of this Municipal Code.

(8) **NO LIMITATION OF LIABILITY.** The recovery of assessable costs pursuant hereto does not limit the liability of a responsible party under applicable local, state or federal law.

(9) **SEVERABILITY.** Should any provision or part of this article be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision or part which shall remain in full force and effect.

3.13 (DISPOSAL OF CITY-OWNED REAL PROPERTY)⁶

(1) **DEFINITIONS.** For the purpose of this section, the following definitions shall apply:

(a) "Disposal" or "dispose" means the sale, lease, exchange or donation of real property.

(b) "Lease" means a tenancy in real property granting the right of possession for a specified term for consideration, and shall not include a permit, license, or franchise to use City-owned or controlled real property or public right-of-way.

(c) "Real property" means any interest in real property owned by the City within or without the corporate limits of the City.

(2) **CLASSIFICATION.** Real property qualifying for the procedure established in this section shall be classified as follows:

(a) **Substandard Undeveloped Property.** Parcels with no structures thereon which are not of minimum buildable size for the zone in which located, and parcels that do not meet the City's existing development ordinances.

⁶ Chapter 3.13 – Created by Ordinance 2014-20

- (b) Standard Undeveloped Property. Parcels with no structures thereon which are of minimum or greater buildable size for the zone in which located.
- (c) Developed Property. Parcels of any size with structures thereon.

(3) SCOPE. Real property owned by the City shall be disposed of as provided in this Chapter unless another procedure is specified in the Municipal Code or approved by the Common Council. Before disposing of any real property under this Chapter, the City shall find that the property is not needed for public use or that the public interest may be furthered by disposal of such real property. In determining whether to dispose of real property, the City in its discretion may consider whether to establish certain requirements as conditions of the transaction, such as requiring the property be developed to a certain standard by a specified date, that the property not be placed in tax-exempt status for a specified length of time, and other condition the City may deem appropriate.

(4) INVENTORY OF REAL PROPERTY

- (a) The City Administrator shall establish and maintain an inventory of all real property and improvements titled in the name of the City and all real property and improvements to which the City has an equitable or fee simple title. The inventory shall include properties acquired through tax sales, grants, purchases, eminent domain, or by operation of law, including property transferred to the City from other governmental agencies. The inventory shall also include the classification of each property as determined by the City Administrator. Properties used for public right-of-way shall be inventoried separately.
- (b) The City Administrator shall present the inventory to the Common Council as a part of the annual budget process. Only those properties which are contained within the inventory shall be permitted to be proposed for lease, sale, or disposal. Revisions to the inventory or classifications shall be submitted as necessary.

(5) DISPOSAL OF SUBSTANDARD UNDEVELOPED PARCELS

- (a) Whenever a particular parcels or parcels is proposed for sale by the City, or purchase inquiry is made, and the property is classified as substandard undeveloped property, the matters shall be set on the regular Council agenda. Except as otherwise provided in this section, notice of the agenda item shall be given to all property owners within 250 feet of the parcel's boundary line and to any parties who have inquired about the purchase. If the City has issued a request for bids seeking purchasers of the property and provided the request for bids to property owners within 250 feet of the parcel's boundary line and to those who have inquired about purchasing the property, notice need only be provided to those who have submitted a bid proposal. The Council shall determine whether it will offer the property for sale.
- (b) If the Common Council decides to sell the property, it will direct the City Administrator or designee to take further action to sell the property. The Common Council may authorize the City Administrator or designee to publicize as appropriate, determine the existence of interested prospective purchasers, and negotiate for the sale of the property. Nothing in this section shall preclude the City Administrator or designee from taking preliminary actions, including publicizing a possible sale, determining the existence of interested prospective purchasers, and issuing a request for bids prior to the Common Council's decision, so long as the City does not enter into a binding agreement without Common Council authorization.
- (c) The Common Council shall have the final authority to approve or disapprove the final terms of the sale. The Common Council may pre-approve terms and the agreement form at the meeting in which it determines to sell the property. If the Common Council does not pre-approve terms and the agreement form at its initial meeting or if alternate terms or agreement form are proposed, the Common Council shall at a later regularly scheduled Council meeting consider approval of the terms and agreement form.

(6) DISPOSAL OF STANDARD UNDEVELOPED PROPERTY AND DEVELOPED PROPERTY.

- (a) Whenever a particular parcel or parcels is proposed for sale by the City or a purchase inquiry is made and the property is classified as standard undeveloped property or developed property, the matter shall be for a public hearing before the Common Council.
- (b) Notice of said hearing shall be published not less than once a week in a newspaper of general circulation in the City for two successive weeks prior to the hearing, and shall describe the property for sale.
- (c) Prior to the sale of a parcel under this section, an appraisal of the property shall be conducted. At the discretion of the Common Council, such an appraisal may be ordered prior to or after the hearing. The appraisal may be made available to the public at the hearing at the discretion of the Common Council.

- (d) Public testimony shall be solicited at the hearing to determine if a sale of any parcel is in the public interest, and the property is not needed for public use.
- (e) After the hearing, the Council shall determine whether it will offer the property for sale and what the minimum acceptable terms shall be.
- (f) If an offer to sell is authorized by the Common Council, the Common Council shall decide whether to sell the property to the highest bidder at a public sale, by sealed bid, or directly to the purchase inquirer on terms established by the Council. A notice advertising the public sale or solicited sealed bids shall be published at least once in a newspaper of general circulation in the City, and said notice shall be published at least two weeks prior to the sale or bid deadline date. The notice shall describe the property to be sold, the minimum acceptable terms of sale, and, if applicable, the person designated to receive bids, the last date bids will be received, and the date, time and place that bids will be opened.
- (g) If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the City Administrator or designee shall complete the sale.
- (h) If no acceptable bids are received on a particular parcel, the following options shall apply:
 - 1. The Common Council may alter or keep the same minimum terms as established under subsection (e) of this section and direct staff to hold another sale, or
 - 2. The Common Council may alter or keep the same minimum terms established under subsection (e) of this section and list the property for six months with a local real estate broker on a multiple listing basis. A listing may be renewed for an additional one six-month period.
- (i) After the expiration of the period set out in subsection (h) above, the property shall be removed from the market. Any decision to sell a piece of property once it has been removed from the market shall require the entire procedure set forth in this section to be repeated. The Council may, however, decide whether or not an additional appraisal is necessary.

(7) DISPOSAL TO OTHER PUBLIC ENTITIES. When disposing of real property to federal or state government or any of their agencies or political subdivision, the Common Council may act without complying with the provisions set forth in Section 5 and 6 above when the disposal is for a specific public use.

(8) LEASE OF SURPLUS REAL PROPERTY.

- (a) When real property is determined by the City Administrator to be suitable for tenant occupancy and that occupancy is consistent with the public purpose for which it was acquired or not be needed for the public purpose for which it was acquired for up to three years, the Common Council may lease any or all part of it to another for a term not to exceed three years. The Common Council may require additional lease terms and conditions consistent with the public health, safety and welfare.
- (b) When real property is determined by the City Administrator to be suitable for agricultural usage, the Common Council may lease any or all part of it to another for a term not to exceed three years. The Common Council may require additional lease terms and conditions consistent with the public health, safety and welfare.

(9) MISCELLANEOUS PROVISIONS.⁷

- (a) No employee of the City of Prairie du Chien may enter into a purchase or rental agreement which is in violation of Chapter 1.07 (5) (d) of the Municipal Code.
- (b) No member of the Common Council, whether individually or as a member of any entity in which said member has a financial involvement, may enter into a purchase or rental agreement with the City of Prairie du Chien, unless the sale or rental is to the highest bidder at a public sale, or to the highest bidder by sealed bid.

⁷ Chapter 3.13 (9) – Amended by Ordinance 2014-26