

# **CITY COUNCIL MANUAL 2025**



FORM OF  
GOVERNMENT

STATUTES  
&  
ORDINANCES

# Form of Government

## Form of Government

The City of Oshkosh operates under the council-manager form of government. The council-manager form of government was created in the early 1900's during Wisconsin's Progressive Era of politics and was seen as a method to provide efficient local government with less political influence and potential corruption.

Under council-manager government, voters elect a non-partisan council who exercises all legislative and general ordinance powers, and who then select and employ a city manager. The manager, who serves at the pleasure of the council, must be selected on merit, based on professional training and experience in municipal management.

The manager acts as the chief executive and administrative officer.

Oshkosh adopted the council-manager form of government via a referendum in 1956. In 1978, the council changed the name of the council president to mayor and granted the mayor the responsibility to appoint, subject to council approval, all board and commission members, but specifically reaffirmed that the city manager retained all other executive and administrative powers conferred by statute. In 2004, another voter referendum gave Oshkosh voters the authority to directly elect the mayor seat on the council.

Oshkosh elects six council members and a mayor on a non-partisan basis, at large, for 2-year overlapping terms. The mayor is a member of the council and votes on resolutions and ordinances in the same manner as every other council member; presides over meetings of the council; performs certain ceremonial duties; and makes appointments to the city's boards and commissions, subject to the approval of the council as a whole. Council members and the mayor receive a small salary for their work on the council and city's boards and commissions.

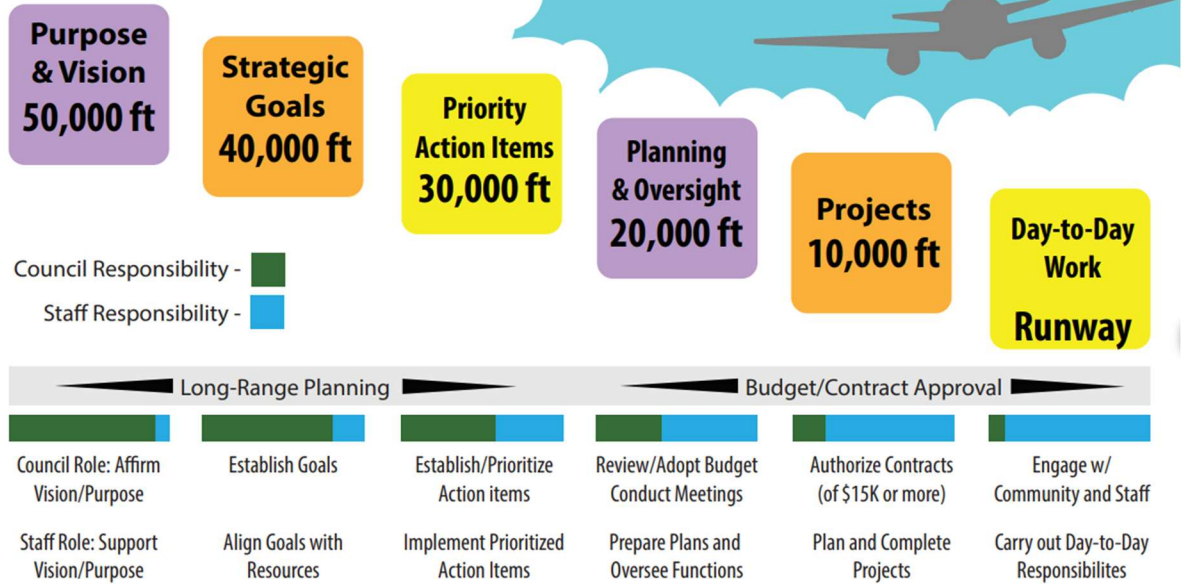
The council acts as a body. Neither the mayor nor any other individual council member has the authority to act, expend funds, enter contracts, enact legislation or take any other action without consensus of the other members of the council. The council makes long range policy decisions for the city, adopts the annual city budget prepared and presented by the city manager, and levies property taxes upon property within the city. The council also enacts new city laws, and may amend or repeal existing laws. While Wisconsin statutes broadly authorize cities to act for the general health, safety and welfare of the community, as creatures of the state, a city's authority is not unlimited. In some cases, the legislature may specifically or by implication prohibit a municipality from enacting local regulation on some matters. For example, in Wisconsin traffic regulations must be



uniformly consistent throughout the state and cities may not create their own traffic laws in conflict with the state laws. In other cases, the legislature specifically authorizes municipalities to act. For example, cities are specifically authorized to take certain actions such as annexation of property, entering into intergovernmental contracts, entering into contracts for goods or services, creating zoning districts and regulations, creating tax incremental finance districts, and issuing municipal licenses such as alcohol beverage licenses.

The city manager implements the policies adopted by the council; appoints, supervises and removes department heads and other city employees with the exception of the police and fire departments who are appointed by the police and fire commission, and the library director, who is appointed by the library board; directs general city operations; signs contracts and other documents; acts as the city's spokesperson; and prepares the city's annual budget within parameters established by the council.

# Council & Staff Work Flight Analogy



Infographic adapted from Mike Baker, *Public Management* May, 2018

# Statutes and Ordinances

**Wisconsin Statutes**  
**Chapter 64 - Other Forms of City Government**  
**Subchapter I - City Manager Plan**

**64.07 Powers of council; its organization; quorum; meetings.**

- (1) The council shall possess and exercise all legislative and general ordinance powers imposed and conferred by general law or special charter upon the mayor and common council and the various boards and commissions not inconsistent with ss. 64.01 to 64.15, and in force in such city at the time of its reorganization and such additional powers as are hereinafter imposed and conferred, but such council shall not have the power to enact special executive or administrative orders, it being the intent of ss. 64.01 to 64.15 to separate the legislative and executive powers of city government.
- (2) At its first meeting the city council shall select by majority vote one of its members to act as president. The president shall be the presiding officer of the council and shall have a vote but shall have no veto power.
- (3) A majority of the members of the council shall constitute a quorum, and a majority vote of all the members of the council shall be necessary to adopt any ordinance or resolution.
- (4) The ayes and noes shall be called and recorded on the vote upon every ordinance and resolution.
- (5) The council shall provide by ordinance for the time of holding regular meetings and special meetings shall be called by the president or by any 2 council members or by the city manager.
- (6) All meetings of the council or of any committee thereof, whether regular or special, shall be open to the public.

**History:** 1985 a. 135 s. 83 (2).

**64.08 Council members, their duties and compensation.** The council members shall devote such time to the duties of their office as the interests and general welfare of the city demand and shall receive such compensation as determined in the petition, ordinance or resolution provided for in s. 64.03. The council shall have power by ordinance to fix the salary of their successors in office.

**History:** 1985 a. 135 s. 83 (2).

**City of Oshkosh Municipal Code**  
**Chapter 2 – Administration**  
**Article I. In General**

**SECTION 2-1                      CITY MANAGER PLAN**

The Government of the City of Oshkosh shall operate under a City Manager form of government under Chapter 64 of the Wisconsin Statutes, pursuant to the charter ordinance adopted by referendum on November 6, 1956.

**SECTION 2-2                      ELECTIVE OFFICIALS; TERMS; PRIMARY ELECTIONS**

(A)    Which Officials Elected

The elective officials of the City of Oshkosh shall include:

- (1)    A Mayor nominated and elected from the city at large to serve a two (2) year term; and
- (2)    Six (6) Council Members nominated and elected from the city at large to serve a two (2) year term.

(B)    Eligibility

Any person possessing the qualifications of an elector in the City of Oshkosh shall be eligible to election as Mayor or as a Council Member.

(C)    Primary Required

A primary election shall be held in the city for the office of Mayor or Council Member whenever the number of candidates exceeds twice the number of the position to be filled.

**SECTION 2-3                      DESIGNATION OF LOCAL PUBLIC OFFICIALS**

For purposes of complying with State Statutes pertaining to Local Public Officials, the Common Council hereby finds and declares the following offices, positions and persons to be Local Public Officials:

- A) Members of the Common Council
- B) Members of the Boards and Commissions of the City of Oshkosh
- C) The City Manager
- D) Designated Heads of Staff Offices and Departments of the City of Oshkosh  
[Statutory References §19.42(7w)(d), 19.32 (1dm), 19.36(11), 19.35(1) Wis. Stats.]

## **SECTION 2-4**

## **TIME OF TAKING OFFICE; ELECTED OFFICIALS**

The regular terms of the Mayor and Council Members shall commence on the third Tuesday in April following their election. [Statutory Reference §64.05 Wis. Stats.]

## **SECTION 2-5**

## **PROCEDURE TO FILL COUNCIL VACANCIES**

Pursuant to the terms and conditions of Sec. 17.23, Wis. Stats., in the event of a vacancy on the City Council, the City Clerk shall, within 14 days of a vacancy or anticipated vacancy, advertise for and solicit applications from individuals to fill the vacant position. Completed applications include a letter of interest and current resume'.

Applicants must submit applications to the City Clerk within 30 days of the initial advertisement of vacancy. Thereafter, at the next regular meeting of the Common Council, all applicants shall be allowed time to make a presentation regarding their qualifications to the Council. The Common Council shall then, by majority vote, decide who will fill the vacancy. [Statutory Reference §§ 17.23, 64.05(2) Wis. Stats.]

# **ARTICLE III. LEGISLATIVE**

## **SECTION 2-9**

## **COUNCIL DUTIES**

### **(A) Appointment and Removal of City Manager**

The Council shall select a City Manager. The City Manager shall be selected by the Council purely on merit. In selecting the City Manager, the Council shall give due regard to training, experience, executive and administrative ability, efficiency, general qualifications, and fitness for performing the duties of the office. No person shall be eligible to the office of City Manager who is not by training, experience, ability and efficiency well qualified and generally fit to perform the duties of such office. No weight or consideration shall be given by the Council to nationality, political or religious affiliations, or to any other consideration except merit and direct qualifications for the office. Residence in the City or State shall not be a qualification for the Office of City Manager. The Council may remove the City Manager from office in accordance with Chapter 64 of the Wisconsin Statutes. [Statutory Reference §64.09 Wis. Stats.]

### **(B) Qualifications of Members**

The Council shall be the judge of the election and qualification of its members, and may pursuant to state statute suspend or remove its members for cause. [Statutory Reference §17.12(1)(a) Wis. Stats.]

- (C) Legislative Power  
The Council shall possess and exercise all legislative and general ordinance powers imposed and conferred by general law or special charter upon the Mayor and Council and the various boards and commissions not inconsistent with Chapter 64 Wisconsin Statutes. The Council shall not have the power to enact special executive or administrative orders.  
[Statutory Reference §64.07 Wis. Stats.]
- (D) Attention to Duty.  
Council Members shall devote such time to the duties of their office as the interests and general welfare of the City demand. [Statutory Reference §64.08 Wis. Stats.]
- (E) Power to Fix Salaries.  
The Council shall have power by ordinance to fix the salary of any successor Mayor and its own successors in office. [Statutory Reference §64.08 Wis. Stats.]
- (F) Administrative Powers.  
The Council shall, upon the report and recommendation of the City Manager, have the power to create general departments of city administration and to alter, reorganize or abolish by ordinance any administrative board or commission, with the exception of the Board of Police and Fire Commissioners. [Statutory Reference §64.10 Wis. Stats.]
- (G) Annual Audit  
At the end of each fiscal year, the Council shall cause a full and complete examination of all books and accounts of the City to be made by competent and public accountants who shall report in full to the Council. [Statutory Reference §64.12(4) Wis. Stats.]
- (H) To Elect Deputy Mayor  
At its first meeting on the third Tuesday following the spring general election the City Council shall select by majority vote, one of its members to act as Deputy Mayor, who shall preside over meetings and exercise all duties and responsibilities of the Mayor during a temporary absence or disability.

## **SECTION 2-10 COUNCIL MEETINGS**

- (A) Organizational Meeting  
Following a regular city election, the new Council shall first meet on the third Tuesday of April in each election year at the Council Chambers in the City Hall at 12:00 o'clock noon of said day. [Statutory Reference §64.05(1) Wis. Stats.]

(B) Regular Meetings

(1) Time and Place

The regular meetings of the Council of the City of Oshkosh shall be held in the Council Chambers of the City Hall or such other place as may be properly noticed on the second and fourth Tuesday in each month at 6:00 o'clock p.m.; except that if a regular meeting falls upon the same date as an election the regular meeting of the Council shall be held upon the Wednesday of that week. [Statutory Reference §64.07(5) Wis. Stats.]

(C) Special Meetings

Special meetings of the Council may be called by the Mayor of the Council, the City Manager, or any two members of the Council and shall be held in the Council Chambers or such other place as may be properly noticed. No other business shall be transacted at a special meeting except as specified in the notice of such meeting. [Statutory Reference §64.07(5) Wis. Stats.]

(D) Adjournments

Any regular or special meeting of the Council at which there shall be a quorum present may adjourn to a day and time fixed, at which time such meeting may in like manner be further adjourned; provided, however, that no such adjournments shall be to a time later than the next regular meeting.

(E) Meetings Shall Be Public

Except as such meetings may be properly convened in closed session, all meetings of the Council, whether regular or special, shall be open to the public as provided in the Wisconsin Open Meetings Law, and all of the Council's official actions shall be recorded by the City Clerk or under authorization of the Clerk in record books kept for that purpose.

[Statutory Reference §§ 64.07(6), 19.83(1), 19.85 Wis. Stats.]

(F) Call to Order

The Mayor shall promptly call each meeting to order at the hour fixed for the holding of such meeting.

(G) Roll Call and Quorum

Before proceeding to business, the roll of the members of the Council shall be called and the names of those present and those absent shall be entered into the minutes by the Clerk or under the Clerk's authorization. A majority of the members of the Council shall constitute a quorum for the transaction of business, but a lesser number can adjourn any meeting and shall have power to compel the attendance of absent members. [Statutory Reference §64.07(3) Wis. Stats.]



(H) Disturbance, How Suppressed

Whenever any disturbance or disorderly conduct shall occur in the Council Chambers or rooms or halls adjacent thereto, the Mayor shall have power and authority to cause the same to be cleared of any or all persons except members of the Council.

**SECTION 2-11      DUTIES OF THE MAYOR**

The Mayor shall be the presiding officer of the Council and shall have a vote but no veto power. It shall be the general duty of the Mayor or other presiding officer:

(A) Preside at Meetings

To open the session at the time fixed for the meeting, or at the time to which adjournment may be had, by taking the chair and calling the members to order.

(B) Announcement of Quorum

To announce or to have announced, at the conclusion of the roll call, the fact of the presence of a quorum or not, as the case may be.

(C) Presentation of Business.

To announce or to have announced, the business before the Council in the order in which it is to be acted upon.

(D) Receive Motions.

To receive and submit, in proper manner, all motions and propositions presented by members.

(E) Supervision of Voting

To put to a vote the questions which are regularly moved or which necessarily arise in the course of the proceedings, and to announce or to have announced the result.

(F) Enforce Rules of Order

To restrain the public and members of the Council within the rules of order while the Council is meeting and engaged in debate.

(G) Rule on Points of Order

To rule on any point of order or practice, subject to an appeal by any member.

(H) Issue Proclamations

To issue all proclamations.

(I) Appointments

To appoint, subject to Council approval, members to the various Boards and Commissions within the City.

**SECTION 2-13      SUBSTITUTION OF PRESIDING OFFICER**

The Mayor or other presiding officer of the Council may call the Deputy Mayor or a member to the Chair to temporarily preside over the meeting in the case of conflict of interest, illness, or other matter requiring the presiding officer to temporarily remove him/herself from the position of presiding officer, but such substitution shall not extend beyond an adjournment.

**SECTION 2-14      TEMPORARY PRESIDING OFFICER**

In the absence of the Mayor and the Deputy Mayor, one of the Council Members shall be elected to preside temporarily until the return of the Mayor or Deputy Mayor.

**SECTION 2-15      ORDER OF BUSINESS**

An agenda shall be prepared for all meetings of the City Council by the City Manager. Items may be placed upon the agenda by the City Manager, Mayor or any member of the Common Council. An item placed on the agenda may be removed from the agenda prior to the meeting by the City Manager or in the case of items placed on the agenda by the Mayor or other Council Member, by the member so placing the item upon the agenda.

The general order of business of Council meetings shall be as follows:

- (A) Roll Call
- (B) Invocation
- (C) Pledge of Allegiance
- (D) Public Hearings, if any.
- (E) Consent Agenda, including receipt and filing of minutes, reports, receipt of claims and those items of a routine or administrative nature which are recommended for approval by staff
- (F) Resolutions not included upon the Consent Agenda
- (G) Ordinances
- (H) City Council Discussion, Direction and Future Agenda Items
- (I) City Manager Announcements and Statements, including the reporting of any administrative actions taken which require Council confirmation
- (J) Adjournment

The Council may provide in its rules for periods of public comment to be included within the agenda.

The City Manager or Council may include within the general order of business additional items not requiring formal vote of the Council, such as proclamations, presentations, information gathering, announcements and statements, and other matters, without temporarily suspending the rules as provided herein.

The City Manager may change the general order of business within the published agenda as such change may be required for the adoption of particular measures or as may be appropriate for the efficient conduct of the meeting, without temporarily suspending the rules as provided herein.

Items that are considered routine and/or non-controversial may be placed on the consent agenda for adoption. When a consent agenda is used, all items listed upon the consent agenda shall be approved, adopted, enacted or otherwise favorably resolved by a single motion, seconded and adopted by a majority vote of all members of the council. Items on the consent agenda may be individually commented upon or discussed, but must be removed from the consent agenda for a negative vote. Upon the request of a Council Member or a citizen an item will be pulled from the consent agenda and be considered as a separate issue.

The published order of business may be temporarily suspended at any meeting by 2/3 majority vote of those members of the Council present and voting.

## **SECTION 2-16      RULES OF ORDER AND PROCEDURE**

### **(A)    Resolutions**

All resolutions including those which would result in a charge of money against the City may be acted upon at the same meeting at which they are formally introduced in written form.

### **(B)    Ordinances**

Every ordinance shall receive two separate readings prior to its passage. Unless a request for reading the ordinance in its entirety is made by a member of the Council, reading by title only shall be sufficient and reading in full shall not be required. Where an ordinance shall have the effect of amending, altering or adding to the code of general ordinances, it shall so indicate, stating the section number affected. All ordinances shall be open to any pertinent amendment at any time until their final passage.

(C) Petitions and Communications

All petitions and communications addressed to the Council or intended for Council action received by 4:30 p.m. of the Thursday preceding the Council meeting shall be reported as received on the agenda of that meeting. This shall have the effect of giving the Council an opportunity to study all petitions and communications before they appear on an agenda for official action.

(D) Requests and Reports

All requests and reports addressed to the Council or intended for Council action shall be included in the City Manager's report. Adoption of the Manager's report shall have the effect of authorizing action in accordance with any requests or reports. All requests and reports received by 4:30 p.m. of the Thursday preceding the Council meeting shall be included in the report of that meeting. This shall have the effect of giving the Council an opportunity to study all requests and reports before they appear on an agenda for official action.

(E) Voting Procedures

An aye and no vote shall be called with the Mayor of the Council being called last, and recorded on the vote of every ordinance, resolution and expenditure of money and shall be taken upon any other matter requested by a Council Member. In the event that a Council Member declines to vote, the Clerk shall record the vote as "present." A majority vote of all members of the Council shall be necessary to adopt any ordinance or resolution, except where a greater number is required by law. [Statutory Reference §64.07(3) Wis. Stats.]

(F) Claims and Accounts

All claims and accounts against the City shall be filed with the City Clerk who shall, after their audit and approval by the City Manager, present the same to the Council for final disposition.

(G) Rules of Order

The Council shall be governed by such rules of order as the Council may adopt from time to time, as may be necessary for the efficient conduct of its business. The most recent version of Roberts Rules of Order may be used for guidance if a matter is not addressed within the Council's adopted Rules of Order. Every member shall address the presiding officer before speaking and shall not be interrupted except by a call to order.

(H) Suspension of Rules of Order and Procedure

These rules or Council rules adopted under this authority, may be temporarily suspended at any meeting by a two-thirds vote of all members of the Council. The vote shall be ayes and noes and shall be so recorded.

(I) Amendment of Rules

These rules shall not be changed, amended or repealed unless the proposition or amendment is introduced in writing at a regular meeting and the same is laid over for consideration to a subsequent meeting with at least two weeks intervening.

City of Oshkosh  
Organizational  
Chart  
Purpose and  
Interrelationships of City  
Entities



# City of Oshkosh Table of Organization

**Vision** – A thriving and sustainable community offering abundant opportunities for work and life

**Mission** – The City of Oshkosh provides goods and services in pursuit of a safe and vibrant community

**Guiding Principles**

**Can Do Spirit** – Serve the Customer with a Confident Can-Do-Spirit

**Accountable** – Hold Ourselves to the Highest Standards with a Dedication to Preserving the Public Trust

**Transparent** – Provide the Customer with Information on Our Action and Decisions

**Engaging** – Actively Pursue Customer Involvement Throughout the Decision Making Process

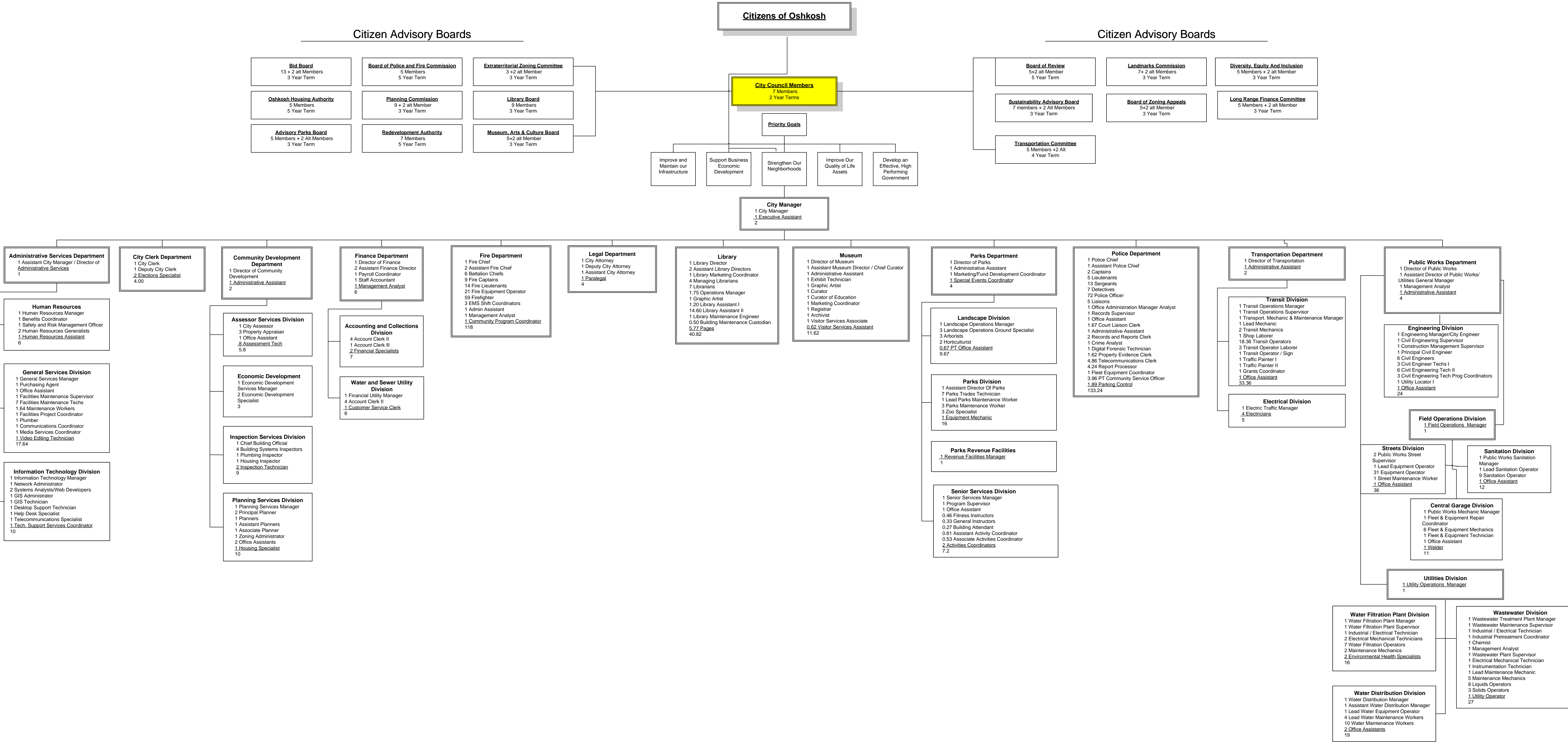
**Economical** – Act in a Fiscally Responsible Manner on Behalf of Our Customers

**Responsive** – Respond to Customers' Requests Equitably and Fairly in a Timely, Informative and Through Manner

**Innovative** – Take a Prudent and Creative Approach to Problem Solving

**Equitable** – Strive to Achieve Equity in the Allocation of Community Resources

**Inclusive** – Foster Environments that Welcome Individual or Group Differences, in order to Promote Dignity, Respect, and Opportunity for All People



## **PURPOSE AND INTERRELATIONSHIP OF COUNCIL, STAFF, BOARDS AND COMMISSIONS, AND OTHER RESOURCES**

*City Council:* The City Council is the Legislative body for the City. The Council makes policy for the City of Oshkosh through the adoption of resolutions and ordinances within the authority granted to municipalities through the Wisconsin Legislature and Home Rule provisions of the Wisconsin State Constitution. The Council sets overall policy for the City of Oshkosh including through the adoption of various plans, such as the City's strategic plan and comprehensive zoning plan. The Council also adopts the City's operational and capital improvements budgets and adopts city regulations for enforcement by ordinance and the City Municipal Code. The City Council also issues certain licenses and permits and conducts quasi-judicial hearings in relation to license or permit issuance, renewals and revocations as necessary.

*City Manager:* The City Manager is the chief executive for the City of Oshkosh and is responsible for the day to day operation of the city and direction to departments and city staff.

*City Staff:* perform the daily operations of the City under the direction of the City Manager. Staff provide the Common Council and other boards and commissions with interpretations, recommendations, and professional advice regarding the advisability of proposals brought before the City decision makers and carry out enforcement of various codes and provisions.



## City of Oshkosh Boards and Commissions

Name	Statute Ref.	Ord. Ref.	Liaison	Frequency of Meeting
Advisory Park Board	None	2-51	Parks Director	Monthly
BID Board	66.1109	2-38	Director of Comm. Development	Monthly
Board of Appeals	62.23(7)(e)	2-59	Director of Comm. Development	Monthly
Board of Public Works	62.14	2-55	City Manager	
Board of Review	70.46	2-56	City Clerk/City Attorney	Yearly; varies based on objections
Diversity, Equity and Inclusion Committee	None	2-41	Director of Administrative Services	Monthly
Fair Housing Commission	106.50	2-43	Director of Comm. Development	As needed
Landmarks Commission	62.27(7)(em)	2-48	Museum Director	Monthly
Library Board	Chapter 43	2-49	Library Director	Monthly
Long Range Finance Committee	None	2-44	Director of Finance	Monthly
Housing Authority Board	66.1201-66.1211	None	Executive Director of the Oshkosh /Winnebago County Housing Authority	Monthly
Plan Commission	62.23	2-52	Director of Comm. Development	Twice Monthly
Extraterritorial Zoning Committee	62.23(7a)(c)	2-52.1	Director of Comm. Development	As needed

<b>Name</b>	<b>Statute Ref.</b>	<b>Ord or Ref</b>	<b>Liaison</b>	<b>Frequency of Meeting</b>
Board of Police & Fire Commissioners	62.13	2-53	Director of Administrative Services	Monthly
Public Museum, Arts and Culture Board	None	2-54	Museum Director	Monthly
Redevelopment Authority	66.1333	Res 03-65	Director of Comm. Development	Every other Month
Sustainability Advisory Board	None	2-42	Director of Comm. Development	Monthly
Transportation Committee		2-57	Director of Transportation	Monthly

## **BID BOARD**

Ordinance Reference: 2-38

Statutory Reference: 66.1109 Wis. Stats.  
(Mandatory if a BID District is created)

Membership: 13 members

By Statute – membership must be at least 5 members and a majority of the membership must own or occupy real property in the BID district

By Ordinance -- Membership shall be of the category necessary to ensure Board representation stipulated by the annual operating plan

Terms: 3 year terms

Staff Liaison: Director of Community Development

Meets: Monthly

Purpose and Duties:

### Duties and Responsibilities

The Board shall develop and implement an annual operating plan for the BID.

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## DIVERSITY, EQUITY AND INCLUSION COMMITTEE

Ordinance Reference: 2-41

Statutory Reference: None

Membership: 5 members - one of whom is a City Council member (up to 2 members may be non-residents)

Due consideration shall be given to ensuring membership reflects the gender, racial, LGBTQ, and ethnic characteristics of the Oshkosh community.

Terms: 3 year terms for citizen members, 1 year term for Council member

Staff Liaison: Director of Administrative Services

Meets: Monthly

### Purpose and Duties:

#### Responsibility

The Diversity, Equity, and Inclusion Committee shall act as an advisory body to the City Manager and Common Council in providing comment and support regarding appropriate strategies to develop activities, resources, and services that promote a positive community environment of equity and inclusion, and celebrate the diverse identities of the City of Oshkosh.

#### Support

The City of Oshkosh shall provide annual membership in and resources from the Government Alliance on Race and Equity and/or other comparable organizations.

#### Duties

- (1) Serve as a resource, recommend goals, and advise the City Manager and Common Council on existing and / or proposed city ordinances, program development and actions, as well as best practices for health, housing and economic mobility, to promote community equity and inclusion for all who live, work, and learn in a diverse Oshkosh.
  - (2) Facilitate input from all geographic areas of Oshkosh, a broad spectrum of residents, business leaders, students, and employees from diverse circumstances, to advance the benefits of community diversity, equity, and inclusion.
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- (3) To educate the public about diversity, equity, and inclusion. The committee will implement a public education plan, and actively plan, sponsor, and participate in events that promote and celebrate diversity.
  - (4) Within one (1) year of creation, report to the City Manager and Common Council on goals of the committee and identify (a) 5 – 7 equity performance measures for each city department developed by each department, and approved by the Committee (b) additional resources necessary to achieve said goals, (c) information relative to community diversity, equity and inclusion to share with the general public and underserved populations, and (d) best practices of community diversity, equity and inclusion for health, housing and economic mobility that the city may consider adopting. Thereafter, the Committee shall annually report to the City Manager and Common Council on specific progress on, and future goals tied to, department-level equity performance metrics. Progress on all performance metrics shall be reported in the annual city budget as part of the regular budget process, and be maintained on a dedicated city website.
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## SUSTAINABILITY ADVISORY BOARD

Ordinance Reference:	2-42
Statutory Reference:	None
Membership:	7 members – one of whom shall be a Council member
Terms:	3 year terms; 1 year term for Council member
Staff Liaison:	Director of Community Development
Meets:	Monthly

### Purpose and Duties:

#### Responsibility

The Sustainability Advisory Board is charged with the responsibility of advising the City Manager and Common Council on sustainability issues affecting municipal operations and the community at large.

#### Duties

- (1) Promote sustainability in the community.
  - (2) Advise the City Manager and Common Council on existing and proposed City Ordinances and actions and State and Federal regulations pertaining to sustainability.
  - (3) Facilitate citizen and agency input pertaining to sustainability.
  - (4) Collaborate in the development and monitor implementation of a Community Sustainability Plan.
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## FAIR HOUSING COMMISSION

Ordinance Reference: 2-43, 16-7  
Statutory Reference: 106.50 Wis. Stats.  
Membership: 5 members  
Terms: 3 year terms  
Staff Liaison: Director of Community Development  
Meets: As needed

### Purpose and Duties:

The Fair Housing Commission shall have the following powers and duties:

- (A) Adopt Rules  
To adopt, amend, publish and rescind rules for governing its meetings and hearings;
  - (B) Receive and Investigate Complaints  
To receive complaints and review staff investigation of all complaints alleging any discriminatory practice prohibited by this Division.
  - (C) Hearings  
To hold hearings, if necessary, after efforts at settlement based on complaints made against any person, to administer oaths and take testimony, to compel the production of books, papers and other documents relating to any matter involved in the complaint, and to subpoena witnesses and compel their attendance.
  - (D) Refer Disputes to Appropriate Entity for Resolution  
Refer complaints to the City Attorney or to other appropriate entities to the purpose of reaching a resolution of the issues raised in the complaint.
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## LONG RANGE FINANCE COMMITTEE

Ordinance Reference: 2-44  
Statutory Reference: None  
Membership: 5 members, 1 of whom shall be a Council member  
Terms: 3 year terms for citizen members, 1 year term for Council member  
Staff Liaison: Director of Finance  
Meets: Monthly

### Purpose and Duties:

#### Purpose, Duties and Functions

The Long Range Finance Committee shall have the responsibility to advise the Common Council on policy issues related to the City's finances including areas such as policy development, communications, and the impact of state legislation.

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## LANDMARKS COMMISSION

Ordinance Reference: 2-48

Statutory Reference: §62.23(7)(em) Wis. Stats.

(An ordinance is mandatory if a City has landmarked property, the City may create a Commission to administer ordinance)

Membership: 7 members, 1 of whom shall be a Council member  
Non-voting Ex officio member – Paine Art Center Director or designee

Terms: 3 year terms for citizen members, 1 year term for Council member

Staff Liaison: Director of Public Museum

Meets: Monthly

### Purpose and Duties:

- (1) Shall recommend to the City Council those historic sites, structures, and districts which are of sufficient significance to be classified as landmarks and the criteria under which these were developed.
  - (2) May receive and expend funds for the benefit of protecting, supporting or promoting the City's historic, architectural and cultural heritage.
  - (3) Shall report to the Oshkosh City Council as requested to review its work program and expenditures.
  - (4) Shall foster the protection, enhancement, and perpetuation of historic improvements and of districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
  - (5) Shall safeguard and foster civic pride in the City's historic and cultural heritage as embodied and reflected in landmarks and historic districts.
  - (6) Shall cooperate with the City administration to provide information on historic resources to be used to comply with relevant State laws.
  - (7) Shall implement and regulate the provisions of Article XIV, of Chapter 30 of this Code, Historic Preservation. [Statutory Reference §62.23(7) (me) Wis. Stats.]
  - (8) Advise and assist the City Administration and Common Council concerning capital improvements proposed for the Grand Opera House that may impact the historical significance of the facility.
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- (9) Provide recommendations to the Common Council on the use of proceeds from donations made to the City and deposited with the City Treasurer into a special fund for purposes of supporting, adding to, or improving the Grand Opera House. All expenditures from said fund shall be solely for the purpose of adding to or improving the Grand Opera House, and shall be spent solely with the approval of the Oshkosh City Council.
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## LIBRARY BOARD

Ordinance Reference:	2-49
Statutory Reference:	Chapter 43, Wisconsin Statutes (Mandatory if a City has a Municipal Library)
Membership:	9 members + Superintendent of Schools + up to 5 additional members appointed by the County; not more than 2 members may be town residents
Terms:	3 year terms for citizen members
Staff Liaison:	Library Director
Meets:	Monthly

### Purpose and Duties:

#### (A) Duties and Powers

The Library Board supervises the administration of the Library. The Library Board establishes all policies governing the management and operation of the Library and the Board has the power to contract for the extension of Library Services. [Wisconsin Statutes Section 43.52 and 43.58]

#### (B) Employees

The Library Board shall appoint a librarian, who shall appoint such other assistants and employees as the Library Board deems necessary, and who prescribes their duties and compensation. [Wisconsin Statutes Section 43.58]

#### (C) Budget

The Library Board shall have exclusive control of the expenditure of all moneys collected, donated, or appropriated for the Library Fund, and of the purchase of a site and the erection of Library Buildings whenever authorized. The Library Board also shall have exclusive charge, control and custody of all lands, buildings, money or other property devised, bequeathed, given or granted to, or otherwise acquired or leased by, the municipality for library purposes. [Statutory Reference Chapter 43, Wis. Stats.]

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## ADVISORY PARK BOARD

Ordinance Reference: 2-51  
Statutory Reference: None  
Membership: 5 members, 1 of whom shall be a Council member  
Terms: 3 year terms for citizen members, 1 year term for Council member  
Staff Liaison: Parks Director  
Meets: Monthly

### Purpose and Duties:

#### Functions

The Advisory Park Board is empowered and directed to:

- (1) Advise and assist the City Parks Director, City Administration, Common Council, and Planning Commission in planning and developing the Oshkosh Park System to include parks, open spaces, forestry, municipal cemeteries, waterways, and other related areas.
- (2) Participate in the development of the Parks Capital Improvement Program and annually recommend priorities.

#### Coordination of the Advisory Park Board with other Governmental Units

Prior to acting on the Park Capital Improvements Budget or any Park Acquisition or sale the Common Council and Planning Commission shall obtain an advisory review from the Park Board.

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## PLAN COMMISSION

Ordinance Reference:	2-52
Statutory Reference:	§62.23 Wis. Stats (Sections of the statutes contain mandatory duties therefore as a practical matter a mandatory commission)
Membership:	9 members, 1 member shall be a Council member Citizen members shall be persons of recognized experience and qualifications.
Terms:	3 year terms for citizen members, 1 year term for Council member
Staff Liaison:	Director of Community Development
Meets:	Twice Monthly

### Purpose and Duties:

#### Functions and Duties

The functions and duties of the Commission shall be as prescribed in Chapter 30 of the Municipal Code and in Section 62.23 of the Wisconsin Statutes.

## EXTRATERRITORIAL ZONING COMMITTEE

Ordinance Reference:	2-52.1
Statutory Reference:	§62.23(7a)(c) Wis. Stats (If a City exercises extraterritorial zoning then you must have an extraterritorial zoning committee)
Membership:	3 citizen members of plan commission + 2 alternate citizen members
Terms:	coextensive with plan commission membership
Staff Liaison:	Director of Community Development
Meets:	As needed

### Purpose and Duties:

The functions and duties of the Extraterritorial Zoning Committee shall be as prescribed in Chapter 30 of this Code and in Section 62.23(7a) of the Wisconsin Statutes as it relates to the Town of Algoma. [Statutory Reference §62.23(7a)(c) Wis. Stats.]

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## BOARD OF POLICE AND FIRE COMMISSIONERS

Ordinance Reference: 2-53  
Statutory Reference: §62.13 Wis. Stats  
(Mandatory)  
Membership: 5 members  
Terms: 5 year terms  
Staff Liaison: Director of Administrative Services  
Meets: Monthly

### Purpose and Duties:

The Board shall have such functions and duties as are prescribed by the Wisconsin Statutes, particularly section 62.13 thereof.

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## OSHKOSH MUSEUM, ARTS AND CULTURE BOARD

Ordinance Reference: 2-54  
Statutory Reference: None  
Membership: 5 members – one of whom shall be a Council member  
Terms: 3 year terms for citizen members; 1-year term for Council member  
Staff Liaison: Museum Director  
Meets: Monthly

### Purpose and Duties:

#### (B) Duties and Responsibilities Pertaining to the Oshkosh Public Museum

##### (1) General Powers

The Board shall have power to manage, control, and operate the Museum through the establishment of strategic and other plans and the setting of policies related to the care, maintenance and acquisition/disposal of the Museum and Museum property including appurtenances, fixtures, furniture and items within exhibits or collections, where such policies are not inconsistent with the ordinances and policies of the City of Oshkosh.

##### (2) Acquisition, Disposition, Care and Management of Property

The Board shall have power to accept all gifts, donations, bequests, grants, and devises of or to direct the purchase of property, both real and personal with funds budgeted for such purposes or with donated funds, for the enrichment and improvement of the Museum collections and properties, provided, however, that, before accepting grants, devises, or gifts of or otherwise acquiring real estate, such acquisition of real estate must be approved by the Common Council. All books, specimens and other personal property within the museum collections shall be under the care, management and control of the Board who may provide for the disposition of such property in accordance with policies which the Board may adopt.

##### (3) Employees

The Board shall recommend a Director to be appointed by the City Manager to be the chief executive officer exercising all executive and administrative authority for the Oshkosh Public Museum. Other employees may be employed as deemed necessary for the proper operation, management, and functioning of the Museum as authorized within the City's organizational chart and current city budget. The compensation for the Director and all employees shall be included in the budget submitted to the City Manager

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and presented to the Common Council for approval.

(4) Approval of Annual Budget / Appropriated Funding

The Board shall annually review the budget for the Museum to be submitted to the City Manager for review and submittal to the Common Council for approval. Funds appropriated to the Museum by the Common Council shall be used for the purposes appropriated and shall not be used for any purpose other than for the operation, care and maintenance of the Museum.

(5) Other Revenue

The Board shall have the power to derive additional revenues in proper legal ways which the members shall from time to time agree upon, to be expended at the direction of the Museum Board for Museum purposes.

(6) Trust Funds, Monetary Gifts and Contributions

The City Treasurer shall set up accounts on the books as appropriate, for the purpose of supporting the Oshkosh Public Museum. All gifts or contributions, or the proceeds therefrom in the form of money shall be deposited by the Museum Board with the City Treasurer and shall be credited to such funds.

The Board shall have control over the expenditure of all money devised, bequeathed, given or granted to, or otherwise acquired by the Museum and/or the City for Museum purposes. All expenditures from said funds shall be made in accordance with the intent of the donors and in accordance with the provisions of any trust document or other instrument of gift and made solely for the purpose of adding to or improving the various collections and exhibits or for the care, maintenance or improvement of the Museum or Museum property. All disbursements from such funds, unless otherwise provided by the donor, shall be made solely at the discretion of the Museum Board without further approval required.

Bonds or securities devised, bequeathed, given or granted to the Museum shall be invested in accordance with municipal statutes governing the investment of public funds or may be converted to cash as deemed appropriate by the Director of Finance.

The Museum Board shall have management and control over investments but such trusts or similar funds established for the benefit of the Museum

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shall be invested in accordance with the laws, rules and policies governing the investment of public funds.

(7) Expenditures

Expenditures shall be made consistent with the approved budget and with City ordinances and City and Museum policies. Capital Expenditures shall require Council approval.

(8) Code of Ethics

The relations between the Museum and the public, between museums, between the Director and the Museum Board, between the Director and other museum employees, between other museum employees and the Director, and between museum employees shall be governed in all respects where possible and practicable by the Code of Ethics of the American Alliance of Museums, and it shall be the further duty of the Museum Board to enforce said code whenever need for such enforcement is called to its attention.

(C) Duties Pertaining to Public Art and Art in Public Places

(1) Terms Defined

a) *Public Art*. The term “Public Art” or “Art in Public Place” means any Work of Art

acquired by the City and displayed on city-owned property in an area open or viewable by the public, on the exterior of city-owned facility, or on non-City property open to or viewable by the public if the artwork is installed or financed, in whole or in part, with City funds or grants procured by the City, or if the artwork is owned by, donated to, or on loan to the City.

b) *Work of Art*. The term “Work of Art” means any application of skill and taste to the production of tangible objects according to aesthetic principles, including but not limited to paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, tapestries, photographs, drawings and ceramics, but excluding purely structural or supportive elements, advertising, or those required by applicable law, code, rule or regulation.

(2) Purpose, Duties, and Functions.

The Museum, Arts and Culture Board shall have the responsibility to:

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- a)* Promote Public Art in the community.
    - b)* Advise the City Manager, Common Council and appropriate boards and commissions on matters pertaining to Public Art and art in public places and the planning and development of policies and projects for Public Art.
    - c)* Advise the Common Council on Gifts or donations of Public Art pursuant to the City of Oshkosh Gifts and Donations Policy.
    - d)* Receive and expend funds for the benefit of protecting, supporting or promoting Public Art
  - (D) The provisions of this section are not intended to supersede collections governed by policies of the Oshkosh Public Museum or Oshkosh Public Library.
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## **BOARD OF PUBLIC WORKS**

Ordinance Reference: 2-55  
Statutory Reference: §62.14, 64.10(2) Wis. Stats.  
(Mandatory)  
Membership: 1 member – City Manager  
Terms:  
Staff Liaison:  
Meets: As needed

### **Purpose and Duties:**

The duties of the Board of Public Works as set forth in the Wisconsin Statutes, particularly Section 62.14 thereof, shall be exercised by the City Manager.

## BOARD OF REVIEW

Ordinance Reference: 2-56  
Statutory Reference: §70.46 Wis. Stats  
(Mandatory)  
Membership: 5 members  
Terms: 5 year terms  
Staff Liaison: City Clerk / City Attorney  
Meets: Organization meeting in May, as needed for hearings thereafter until  
hearings are concluded

### Purpose and Duties:

#### Functions and Duties

The Board shall have such functions and duties as are prescribed by the Wisconsin Statutes, particularly Section 70.45 and Section 70.47 thereof.

Notwithstanding section 2-36(I), each member of the Board of Review shall receive compensation in the amount to be established from time to time by resolution of the Common Council for attendance at training sessions; attendance for hearings and other matters when the Board of Review is in session, including breaks as may be provided; and for time spent in review of a transcript, recording and/or summary of evidence as provided in section 70.47(9) of the Wisconsin Statutes, as may be required for a determination by a quorum of the Board.

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## TRANSPORTATION COMMITTEE

Ordinance Reference: 2-57  
Statutory Reference: None  
Membership: 5 members, 1 of whom shall be a Council member  
Terms: 3 year terms for citizen members, 1 year term for Council member  
Staff Liaison: Director of Transportation  
Meets: Monthly

### Purpose and Duties:

#### (A) Functions and Duties

- (1) Traffic. The Committee shall study and recommend to the Common Council on all matters involving vehicular traffic, intersectional traffic flow, speed limits, pedestrian right of ways, crosswalks, bus stops, school zones, and bicycle lanes.
  - (2) Parking in General.
    - (a) Advise City staff and the Common Council with respect to the goals and objectives of public parking in the City, as it pertains to the parking areas under its jurisdiction.
    - (b) Advise the Common Council on all matters involving the operations of parking areas under its jurisdiction, including establishment of parking rates, time limits, availability of and requirements for leased and permit parking.
    - (c) Recommend to the Common Council all matters involving the City's inventory of parking infrastructure, including, acquisition and disposition of land, proposed property improvements, and investments in revenue collection technology.
    - (d) Review requests to restrict access to parking areas under its jurisdiction, and provide recommendations to the Common Council as to whether such reservations are consistent with the goals and objectives of public parking in the City.
  - (3) On Street Parking. The Committee shall study and recommend to the Common Council on all matters involving on-street parking.
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(4) Municipal Parking Lots. The Committee shall study and recommend to the Common Council on all matters involving off-street parking in the following municipal parking lots:

- (a) 300 West Lot, at the southeast corner of the intersection of Algoma Boulevard and Brown Street and the area on High Avenue bordering the Grand Opera House to the west
- (b) Convention Center North Lot, at the northeast corner of the intersection of Ceape Avenue and State Street
- (c) Grand Lot, between High Avenue and Pearl Avenue, and west of Market Street
- (d) 400 East Lot, at the southwest corner of Jefferson Street and Merritt Avenue
- (e) 200 East Lot, at the northwest corner of the intersection of Otter Avenue and State Street
- (f) Otter Lot, on the south side of Otter Avenue between State Street and Court Street
- (g) Convention Center East Lot, on the south side of Ceape Avenue, bordering the Oshkosh Convention Center on the east
- (h) State Lot, on the east side of State Street between Waugoo Avenue and Washington Avenue
- (i) 300 East Lot, at the southwest corner of the intersection of State Street and Washington Avenue
- (j) 400 West Lot, on the east side of Division Street between Church Avenue and Algoma Boulevard
- (k) 500 West Street Lot, at the northeast corner of Church Avenue and Division Street
- (l) 8th North Lot, on the north side of 8th Avenue, east of Oregon Street
- (m) 9th South Lot, behind the west side of Oregon Street between 9th Avenue and 10th Avenue
- (n) 10th South Lot, on the south side of 10th Avenue, east of Oregon Street

(5) Private Parking Lots under Municipal Agreements. The Committee shall study and recommend to the Common Council on all matters involving off-street parking in the following private parking lots, according to filed agreements with the respective property owners:

- (a) City Center Lot, at the southwest corner of Market Street and Pearl Avenue
- (b) 200 West Lot, at the northwest corner of Main Street and Pearl Avenue
- (c) Rec Gym Lot, on the west side of Division Street between Church Avenue and Algoma Boulevard.

(6) Parking Lots not included in Committee's Authority. The Committee shall not

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have jurisdiction over off-street parking areas wholly included in the boundaries of a municipal park. The Committee shall also not have jurisdiction over the Leach Lot (adjacent to the Leach Amphitheater, south of Ceape Avenue and east of Court Street).

The Committee shall not have jurisdiction over parking lots on municipal property designated to exclusively serve City facilities, including but not limited to City Hall, the Safety Building and Library.

- (7) The Committee shall guide and assist in the implementation of improved transit service to the City of Oshkosh. The Committee will monitor the level of transit service provided to ensure an efficient and effective operation.
  - (8) The Committee will make recommendations on major route, service and/or fare changes.
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(9) Bicycle and Pedestrian Matters

The Committee shall:

- (a) advise the Common Council with respect to recommendations on bicycle/pedestrian matters.
  - (b) assist with developing, implementing, and updating the City's Bicycle and Pedestrian Circulation Plan.
  - (c) coordinate education, encouragement, and outreach activities across City departments, other government agencies, non-profit organizations, and the private sector.
  - (d) make recommendations on capital and maintenance projects to improve bicycle and pedestrian safety and mobility.
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## **BOARD OF ZONING APPEALS**

Ordinance Reference: 2-59  
Statutory Reference: §62.23(7)(e) Wis. Stats.  
(Mandatory if the City has adopted zoning requirements)  
Membership: 5 members  
Terms: 3 year terms  
Staff Liaison: Director of Community Development  
Meets: Monthly (if needed for hearings)

### **Purpose and Duties:**

The Board of Zoning Appeals shall have the duties and powers prescribed in Section 62.23 of the Wisconsin Statutes and Chapter 30 of this Municipal Code.

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## REDEVELOPMENT AUTHORITY

Ordinance Reference: Resolution 03-65

Statutory Reference: §66.1333 Wis. Stats.

Membership: 7 members

only reference to Council members is in the resolution creating the commission which provides that when the Mayor serves as a commissioner he/she shall act as its chair

Terms: while not specified in original resolution, members are typically appointed for 5 year terms

Staff Liaison: Director of Community Development

Meets: Every other Month

### Purpose and Duties:

The Redevelopment Authority is an independent entity created by the City pursuant to Wisconsin Statutes for the purpose of carrying out blight elimination and urban renewal programs and projects. The Oshkosh Redevelopment Authority has as its primary emphasis and focus the redevelopment and revitalization of central city areas in the community.

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## HOUSING AUTHORITY BOARD

Ordinance Reference: None  
Statutory Reference: §§ 66.1201-66.1211 Wis. Stats.  
(Mandatory if you establish a Housing Authority)  
Membership: 5 members one of whom must be a low income resident or voucher participant, no more than 2 may be city officials  
Terms: 5 year terms  
Staff Liaison: Staffed by the Oshkosh/Winnebago Housing Authority Staff  
Meets: Monthly

### Purpose and Duties:

The Board of Commissioners has the powers enumerated in 66.1201(9) Wis. Stats. and the authority to acquire property by eminent domain, issue bonds, mortgage property, contract with the federal government and liquidate and dispose of housing projects.

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## **Entities independent of the City of Oshkosh -**

*East Central Wisconsin Regional Planning Commission (ECWRPC):* a regional body created by the State of Wisconsin §66.0309 Wis. Stats. to provide oversight, review and assistance to local government; ECWRPC has the authority to conduct studies, collect and analyze data, make and adopt plans for the physical and economic development of the region; may provide advisory services to local governments including comprehensive planning, economic development planning, preparation or review of proposed land use regulations, grant writing, data collection and mapping services.

*GO-EDC:* Greater Oshkosh Economic Development Corporation is a non-profit corporation created separately and working independently of the City of Oshkosh which exists to preserve the health of existing companies, foster a positive entrepreneurial environment, connect companies to workforce and talent development resources, enhance the business climate and promote the quality of life in the greater Oshkosh area.

*GO-HNI:* Greater Oshkosh Healthy Neighborhoods Inc. (GO-HNI) is a non-profit corporation which is independent of the City of Oshkosh but which works with the City to promote neighborhood development services including community building and engagement, real estate development and asset management activities within Oshkosh.

*Neighborhood Associations:* A neighborhood association is a loosely formed group of residents and property owners within a geographically defined area within the City of Oshkosh. While the City of Oshkosh recognizes neighborhood associations, they are not created by and are independent of the City of Oshkosh.

*Oshkosh Convention and Visitors Bureau:* The Oshkosh Convention & Visitors Bureau (OCVB) is a private, not-for-profit organization, funded solely through room tax dollars from Oshkosh hotels and UW-Oshkosh under an Agreement with the City of Oshkosh. Its mission is to promote Oshkosh and Winnebago County as a premier destination for corporate, sports and leisure groups and individual visitors.

*Grand Opera House Foundation:* A private, not for profit entity responsible for operating the Grand Opera House under an Agreement with the City of Oshkosh.

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Oshkosh  
Common Council  
Rules of Order



## ***Oshkosh Common Council Rules of Order***

*As Amended: March 11, 2025*

These Rules are established in accordance with and to supplement the Rules contained in Chapter 2 of the City of Oshkosh Municipal Code.

### **I. Scheduling, Location of Meetings, Agenda, Attendance and Remote Participation**

- A. The Council holds regular meetings on the second and fourth Tuesday of each month in the Council Chambers. Special meetings may be called upon request by the Mayor, City Manager or two members of the Council. (See Section 2-10 of the City of Oshkosh Municipal Code).
- B. Meetings shall be publicly noticed and shall be open to and accessible by the public in compliance with the requirements of the Wisconsin Statutes. Closed sessions shall be noticed in accordance with Wisconsin Statutes.
- C. When practicable, public meetings will be made available live on GOV TV in the City of Oshkosh, live streamed on [oshkoshmedia.org](http://oshkoshmedia.org), live on WOCT radio station 101.9 fm, live through Roku, Apple TV and Amazon Fire Stick.
- D. Agenda
  - 1. Action Items: Council Members must have agenda items submitted no later than 4:00 PM on the Tuesday one week prior to the Council meeting. Council members should keep in mind that additional time may be needed to work with staff to put items into resolution or ordinance form or if clarifications are necessary; and that items submitted after the deadline may not be included in the agenda that is published on the Friday prior to the Council meeting.
  - 2. Informational Items: Council members shall inform the City Clerk no later than 12:00 noon on the day prior to the Council meeting of any Council Member Statements that they intend to make at the Council Meeting.
- E. Attendance

To be considered an excused absence from a Council Meeting a Council Member must give notice to the Mayor and City Clerk prior to the meeting's start time.

## F. Remote Meetings and Appearances

The Council recognizes the value of and remains committed to in person meetings and deliberation of matters whenever practicable. However, the City Council recognizes the benefits of providing alternative means for the attendance and participation by its members, the City Manager and staff, and the public at its meetings when necessary due to extraordinary circumstances, when convenient or cost-effective for the City, or as a reasonable accommodation for persons with an ADA disability who are unable to otherwise provide input. Extraordinary circumstances shall mean highly unusual facts or circumstances which prevent in person attendance, due to emergency declarations or due to the desire for participation by persons including consultants or presenters who are unable because of distance, cost, time or other reason to attend in person; and/or when meetings may be better facilitated by those persons or all persons participating through Remote Means. Remote participation is intended for the benefit of the City of Oshkosh and not for the benefit of any individual council member or other individual.

“Remote Means, Remote Participation or Remote Appearance” shall mean participation by a member of a public body or by a member of the public or other individual in a meeting of that public body, where the member is not physically present at a designated meeting location. Remote Participation includes through video, telephone, computer or other means where persons are permitted to view, listen to and participate in the meeting without having a physical presence at a defined physical meeting location.

### 1) Remote Meetings (Meetings held entirely remotely or with significant remote participation)

A majority of the Common Council may direct by consensus or majority vote, or the City Manager in his/her discretion, may provide for Remote Participation in any regular or special meeting of the Common Council. Remote Participation may include members of the Council, staff, consultants or presenters, and/or members of the public.

Except as agreed upon by consensus or a majority of the Common Council when scheduling a particular meeting or workshop; or when in the determination of the City Manager, it is reasonable and necessary to limit in person participation for the protection of the public, city officials and city employees (for example, under a Declaration of Emergency); City Council members must be physically present at City Council meetings to participate and vote upon any matter. If a meeting includes Remote Participation by members, a council

member may participate remotely and shall retain all participation and voting rights. (This rule shall not be interpreted to circumvent or supersede any statutes, ordinances or rules pertaining to abstentions, recusal or removal of members).

If a meeting is conducted solely by Remote Means and there is no physical meeting location or the public is otherwise excluded from being present at a physical meeting location, the public must be afforded an opportunity to live access the meeting and instructions shall be provided how to do so. This may include live broadcast or streaming, video or call-in participation, or other adequate means to provide live access to the public meeting. Where public comment or participation is required by law, adequate means must be provided to accommodate such participation.

Appearance by Remote Means as required or permitted by these rules shall be consistent with the following:

- Remote participation may be permitted in meeting rooms that have adequate audio, video and other technological facilities to allow for remote participation.
- Persons participating by Remote Means should be advised via meeting agendas or other means that participation by remote means may be limited by number of participants and available technology, and may be disrupted by problems such as breakdowns of equipment and fluctuation or interruption of electric power or communications networks. The City of Oshkosh does not guarantee that even if persons have been afforded the opportunity to appear by Remote Means that telephone, computer, wifi or other connections will be sufficient or that the person will be guaranteed the ability to appear by this method.
- In order to accommodate participation for the general public by Remote Means, a meeting link will be provided on the meeting agenda. For meetings where the public may participate by Remote Means, general public comment and public comment on all agenda items shall be taken at the beginning of the meeting, except as necessary to conduct Public Hearings or as may be accommodated at the direction of the Council. Public comment may be closed at the end of any public comment period and persons participating by Remote means shall not interrupt or disrupt the business of the governing body.
- Persons wishing to provide public comment on agenda items for Council meetings either in person or by Remote Means must sign up to speak through the City's website or the Connect Oshkosh App and if participating remotely must participate through the City's meeting link as published on the meeting agenda.



- Persons wishing to provide public comment through Remote Means must join the meeting at least 15 minutes prior to the start of the meeting to allow staff to test the audio/video set up. Attendees must stay muted when not speaking and are responsible for muting and unmuting themselves in a timely fashion when called upon to speak.
- Each member of the public speaking must wait to be called upon by the Mayor or Presiding Member or their designee and must provide their name and address prior to speaking.
- Every person participating by Remote Means must be audible through clear telephone line or computer connections. If a connection is not clear or causes disruption of the meeting, the connection may be terminated at the discretion of the Mayor or Presiding Member or their designee. If a connection is terminated and this causes the loss of a quorum, the meeting shall be adjourned and rescheduled to another date to permit consideration by a quorum.
- All votes shall require a roll call vote – no “all in favor”

2) Remote Appearances (Limited Remote Participation by one or a small number of individuals)

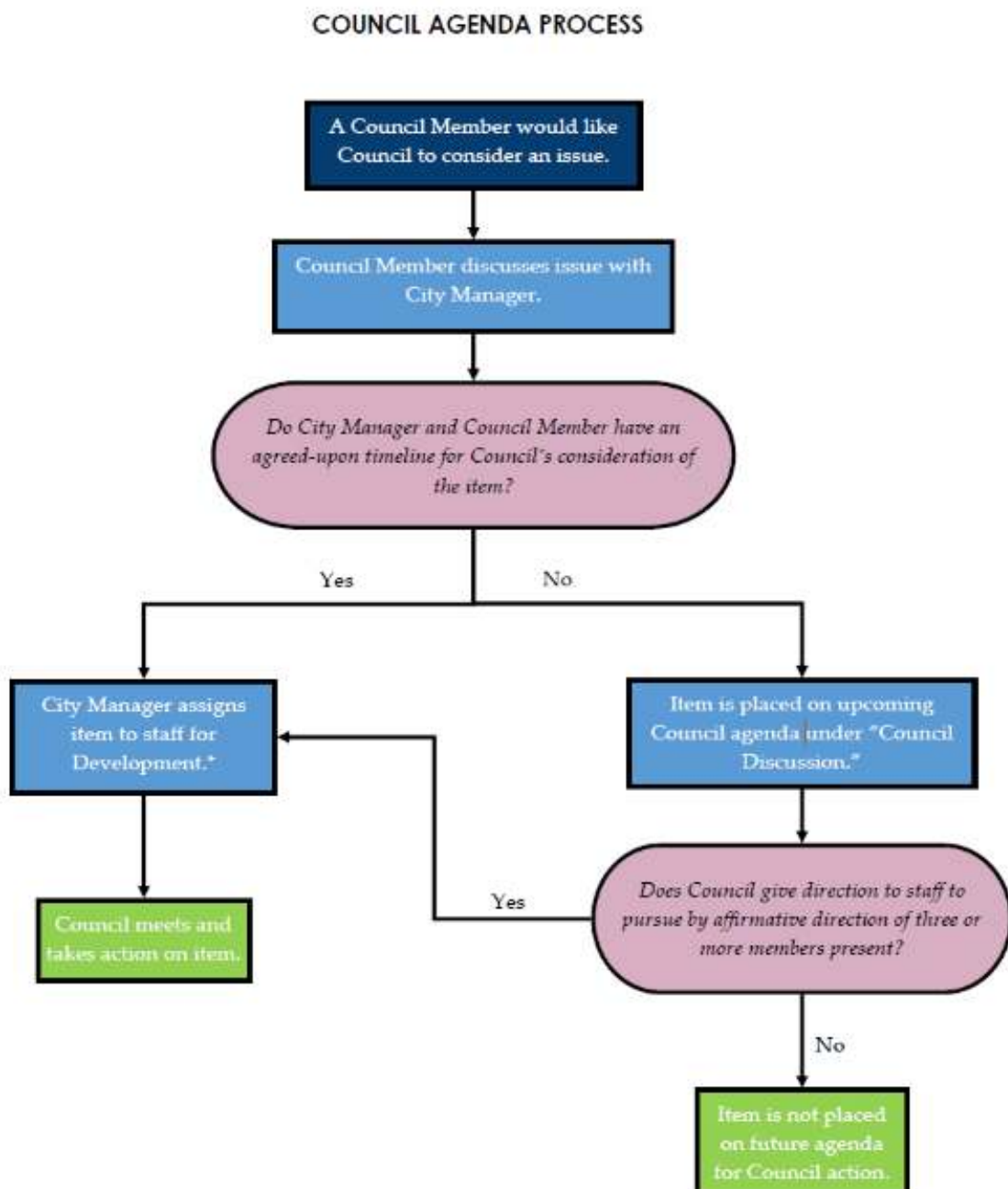
The City of Oshkosh may in its sole discretion permit individual persons to appear via remote means at scheduled in person meetings as a reasonable accommodation to an individual for persons with an ADA disability who are unable to otherwise provide input; to facilitate presentations, to receive information or reports from consultants or other persons; or for other business purposes. Permission for appearances under this paragraph may be granted by the Council or the City Manager or his/her designee. Persons who are permitted to appear in this manner shall comply with all requirements for Remote Participation listed in paragraph 1) above.

Persons requesting accommodation under this provision must submit such request in advance of the meeting. Requests can best be accommodated if submitted at least 5 business days in advance of the scheduled meeting.

Remote appearances shall not be permitted during any quasi-judicial hearing or appeal hearing by persons testifying or by members of the Council adjudicating the matter except under extraordinary circumstances such as a Declaration of Emergency or Emergency Order.

## II. Rules pertaining to Conduct of the Council Meeting / Process to Place Items on the Agenda / Motions

The following process for placement of items on the Agenda by Council members and chart governing the most common motions and actions to be taken at Council Meetings are hereby adopted. The Council chooses not to be strictly governed by Robert's Rules of Order, but where the actions listed below or other provisions of these Rules do not govern a particular issue, the most recent version of Roberts Rules of Order may be used for guidance. Council Liaisons for Boards and Commissions shall have voting rights.



<b>Control of the Agenda</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Withdraw from Agenda <sup>1</sup>	Yes	Yes	No	Majority
Remove Item from Consent Agenda	No	No	No	None
Consider Items out of the Scheduled Order, Change the Agenda Order	Yes	No	No	2/3
Suspend Rules	Yes	No	No	2/3
<b>Taking up Items of Business</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Adopt an Ordinance or Resolution, §64.07(3) Wis. Stats.	Yes	Yes	Yes	Majority of all members (4 members)
Other Original Motions (new business)	Yes	Yes	Yes	Majority
Amend an Original Motion	Yes	Yes	Yes	Majority
Divide the Issue	Yes	No	Yes	Majority
Withdraw Motion (by Proposer, with consent of the Second)	Consent by Second	No	No	None
Layover (Table) until a time certain	Yes	No	No	Majority
Take an item off the Table	Yes	No	No	2/3
Suspend Rules and Adopt an Ordinance on First Reading	Yes	No	No	2/3
<b>Limiting/ Extending or Ending Debate</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Call for the Question (Close Debate) – no objection raised	No	No	No	None
Call for the Question (Close Debate) – objection raised	No	No	No	2/3
Limit or Extend Debate	Yes	No	Yes	2/3

<sup>1</sup> Administration may withdraw an item from the agenda prior to the meeting convening; after the meeting has convened only the Council may withdraw items from the agenda.

<sup>2</sup> By Council Rule, every Motion before the Council is debatable.

<sup>3</sup> Unless otherwise indicated majority or super-majority votes are counted as a percentage of the members present and voting. By statute a majority vote of all members of the Council is required to adopt any ordinance or resolution. §64.07(3) Wis. Stats.

<b>Changing Previous Actions</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Amend Previously Adopted Motion	Yes	Yes	Yes	Majority with Notice; 2/3 without prior Notice
Reconsider (member of the prevailing side may request the body to reconsider its previous action -- must be made during the same meeting or the next succeeding regular meeting)	Yes	Yes	No	Majority
Rescind (repeal/reverse a prior action)	Yes	Yes	Yes	Majority with Notice; 2/3 without prior Notice
<b>Questions / Concerns and Other Issues Outside Substance of Debate</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Point of Order (if rules are not being observed)	No	No	No	Chair Rules
Parliamentary Inquiry (help with parliamentary procedure, how to do something)	No	No	No	Chair provides assistance
Point of Information (to ask a question)	No	No	No	Chair obtains answer
Question of Privilege (some person or thing is interfering with the deliberative process, ie. too noisy, too hot or cold, belligerent person or member)	No	No	No	Chair directs corrective action
Appeal Chair's Decision	Yes	Yes	No	Majority

<sup>2</sup> By Council Rule, every Motion before the Council is debatable.

<sup>3</sup> Unless otherwise indicated majority or super-majority votes are counted as a percentage of the members present and voting. By statute a majority vote of all members of the Council is required to adopt any ordinance or resolution. §64.07(3) Wis. Stats.

<b>Ending a Meeting</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Adjourn (ends/closes the meeting)	Yes	No	No	Majority
Recess (short break that does not end meeting)	Yes	No	Yes	Majority
Adjourn Sine Die (adjourn without future date – used to end/close the session of Council prior to seating of new Council upon election)	Yes	No	Yes	Majority
<b>Selection of Officers or Temporary Chair, if required</b>				
<b>Action</b>	<b>Second Required</b>	<b>Debatable<sup>2</sup></b>	<b>Amendable</b>	<b>Vote Required<sup>3</sup></b>
Nominations	No	No	No	None
Close Nominations (by Declaration of Chair or by Motion)	Yes (if by motion)	No	Yes	2/3
Election of Nominees	No	Yes	No	Majority
Reopen Nominations	Yes	No	Yes	Majority
Temporary Selection of Chair in absence or disability of Chair and Vice may be done by selection of the Chair and Consent of Board				

<sup>2</sup> By Council Rule, every Motion before the Council is debatable.

<sup>3</sup> Unless otherwise indicated majority or super-majority votes are counted as a percentage of the members present and voting. By statute a majority vote of all members of the Council is required to adopt any ordinance or resolution. §64.07(3) Wis. Stats.

*Motions.* No motion requiring a second shall be discussed or acted upon unless and until it has received a second. Motions may be withdrawn by the person making the same, if the motion has received a second, then the person seconding the motion must also consent to the withdrawal of the motion. Motions may only be amended by another motion and second (There shall be no “friendly amendments” to motions) or by withdrawal of the motion and a new motion made.

*Actions/Motions in Order during Debate.* When a question is under debate, no other action or motion shall be in order, except:

- 1) Questions/Concerns and Other Issues Outside the Substance of Debate as identified within the table above;
- 2) To recess;
- 3) To adjourn;
- 4) To lay the matter over to a specific date or to be returned to the Council upon the occurrence of a specific event;
- 5) To Call the Question;
- 6) To refer to a Board or Commission for additional review or action;
- 7) To Divide the Issue;
- 8) To Amend; or
- 9) To withdraw the motion.

The items listed above shall have precedence in the order in which they are listed.

*Vote Change.* A member shall only be permitted to change his/her vote upon a matter at the time their name is called by the Clerk and no member shall be permitted to change his/her vote on a matter once a succeeding member has cast his/her vote.

*Abstentions / Voting Present.* In the event that a member declines to vote, that member shall not be counted toward the number present and shall not have their vote counted as either “aye” or “no” in relation to the matter. If a member’s declining to vote causes the Council to fall below a quorum voting on the matter, the matter shall be scheduled for consideration at the next meeting of the Council when a quorum may be present, unless statutory or ordinance time limits or other considerations or limitations with respect to the particular matter require the Council to take action prior to the next regular meeting. In such case the Council may convene a special meeting to consider the matter or take such other action as may be appropriate with regard to the matter.

*Motions to Lay Over shall include Date or Time Frame for Action.* Motions to lay over shall include a specific date to be returned to the Council or shall require return to the Council upon a specific occurrence within a specified time frame. Except for matters which may be approved by operation of law if not acted upon by Council, if the occurrence shall not happen within the specified time frame, the City Clerk shall notify the Council at the end of the time frame that the matter shall not be brought forward and make appropriate notation to the minutes of the meeting during which the matter was laid over. Upon notice of non-action by the City Clerk, any Council member may request that the matter be placed upon the next Council agenda for report or official action.

*Reconsideration.* Except as action may have already been taken in reliance upon the council's approval/disapproval of an item, any member who voted with the prevailing side on any question may move for reconsideration of a vote at the same meeting or at the next succeeding regular meeting of the Council by notifying the City Clerk of the member's request to have the reconsideration included on the Agenda for the next succeeding regular meeting. A motion to reconsider having been put and lost shall not be renewed by the same or any other member.

*Termination of Debate / Calling the Question.* Any member wishing to terminate debate may move the previous question (call the question). The Mayor or other presiding officer shall ask whether there is any objection to calling the question. If no objection is voiced, then the Clerk shall record unanimous consent to terminate the debate. If an objection is voiced, a roll call vote shall be taken and 2/3 of members present shall be required to terminate the debate. If debate is terminated, the question, including any pending amendments, before the Council shall be taken without further debate.

*Use of Unanimous Consent.* Unanimous Consent shall only be used for termination of debate, motions to adjourn, motions to recess and for elections for Deputy Mayor or Temporary Chair when there shall be only one member put forward for election.

*Amendment of these Rules.* These Rules may be amended or new rules adopted upon proper notice by a majority of all members at any meeting of the Council.

*Suspension of the Rules.* A vote of two-thirds of the members present will suspend any Rule of the Council.

*Rules pertaining to Council Members speaking to items on the Agenda.* When two or more members simultaneously seek recognition, the Mayor or other presiding officer shall name the order of the members who are to speak.

*Council Member Announcements, Statements & Discussion.* Council members speaking under the heading “Council Member Announcements, Statements & Discussion” are limited to five (5) minutes and must not include endorsements of any candidates or other electioneering. (NOTE: Exception to the five (5) minutes may be made at the discretion of the Council.)

*Council Member Reports.* Council Members will be given the opportunity to report on activities of their assigned Boards and Commissions to which they are a liaison. The Mayor will ask each Council Member to provide a report if applicable. Such report shall be limited to one (1) minute per assigned Board/Commission. If greater discussion is required, the item may be scheduled for a future agenda.

*Rules pertaining to Individuals addressing the Council*

1. Individuals speaking to the Council regarding agenda items are limited to one appearance per person of no more than five (5) minutes per agenda item. Whenever the Council proposes an amendment to a resolution or ordinance, the Council will permit additional public comment specific only to the amendment and its effect. (NOTE: Exception to the five (5) minutes may be made at the discretion of the Council.)
  - i. When Remote Participation is required or permitted for the general public, the rules governing Remote Participation as set forth above shall govern the timing of public comments and limitations on public speaking and shall be noted so on the meeting agenda. If a meeting includes Remote Participation, the rule above pertaining to permitting additional comment pertaining to amendments is also suspended, however, Council may, at its sole discretion determine to open public comment on any amendments offered.
  - ii. When Remote Participation is permitted as a reasonable accommodation or for purposes of accommodating a presentation, consultant or other similar individual reason, the City Manager in his/her discretion, shall determine whether the rules governing Remote Participation as set forth above shall govern the timing of public comments and limitations on public speaking and if so, shall so note on the meeting agenda.



## 2. Citizen Statements.

1. Individuals speaking to the Council under the heading "Citizen Statements to Council" are limited to five (5) minutes. (NOTE: Exception to the five (5) minutes may be made at the discretion of the Council.)
2. Individuals may address the Council only and must address items that are not listed on the Council meeting agenda; except items listed under City Manager or Council Member Statements shall be addressed under the heading and at the time permitted for "Citizen Statements to Council".
3. Statements are limited to issues that have an impact on the City of Oshkosh and that the Common Council may address at a future meeting.
4. Statements must not include endorsements of any candidates or other electioneering.
5. Persons are encouraged as an alternative to appearance in person to submit written comments. Written comments may be sent via mail addressed to the City Council, placed in the City Hall dropbox, or sent by email prior to the scheduled meeting to [council@oshkoshwi.gov](mailto:council@oshkoshwi.gov).

The public may, as an alternative to appearance in person, submit written comments. Written comments may be sent via mail addressed to the City Manager, placed in the City Hall dropbox, or sent by email to [council@oshkoshwi.gov](mailto:council@oshkoshwi.gov) prior to the scheduled meeting. Contact information for the Council and City Manager is available on the City website: [www.oshkoshwi.gov](http://www.oshkoshwi.gov).

Written comments received prior to the meeting will be distributed to the Council and made part of the public record of the meeting.

Persons requiring reasonable accommodations to these rules may contact the City Manager's office who shall work with the individual to provide appropriate accommodation as necessary. Persons requesting accommodation under this paragraph must submit such request in advance of the meeting. Requests can best be accommodated if submitted at least 5 business days in advance of the scheduled meeting.

### *Rules of Decorum*

#### 1. Adoption of Civility Pledge.

All participants in Council meetings shall conduct themselves according to the Civility Pledge adopted by the Council on June 14, 2011 by Resolution 11-270, as noted below:

- **Pay Attention** - Be Aware of Others & Sensitive to the Immediate Context of Actions
- **Listen Closely** - Understand Other Points of View
- **Be Inclusive** - Welcome All; Don't Exclude Anyone
- **Don't Gossip** - Remind Others of the Importance of this Practice
- **Show Respect** - Honor Others (Especially in Disagreement)
- **Be Agreeable** - Find Opportunities to Agree
- **Apologize Sincerely** - Repair Damaged Relationships
- **Give Constructive Comments, Suggestions & Feedback** - No Personal Attacks (Focus on Issues)
- **Accept Responsibility** - Don't Shift Blame; Share Disagreements Publicly

#### 2. General Rule of Decorum.

No person shall personally attack a council member, city official, city employee or any other person. For purposes of this section personal attacks shall include comments directed at a particular person or persons which pertain to any matter that is unrelated to the performance of official duties or the conduct of city business, are threatening, slanderous, defamatory or obscene or are of such a nature that the comments disrupt the meeting or cause a disturbance. No person shall make irrelevant, unduly repetitious, offensive, threatening, slanderous, defamatory, or obscene remarks or act in such a manner as to disrupt or disturb the orderly conduct of any meeting, including handclapping, stomping of feet, whistling, shouting or other demonstrations. Any person violating this provision shall be called to order by the Mayor. If the conduct continues, the Mayor may order the person removed and the Council may make a fact finding whether such behavior was outside the scope and content of the council rules and, if applicable, whether the behavior was of a character to cause a breach of the peace.

### III. Rules pertaining to Duties of the Deputy Mayor

The Deputy Mayor shall be responsible for ensuring that the annual evaluation of the City Manager is accomplished and the goals for the City Manager are developed and approved annually.

(CARRIED 7-0 LOST        LAID OVER        WITHDRAWN       )

PURPOSE: EXPRESSING COUNCIL'S SUPPORT FOR THE OSHKOSH CIVILITY PROJECT AND ENDORSING THE OSHKOSH CIVILITY PLEDGE

INITIATED BY: CITY ADMINISTRATION

WHEREAS, the Oshkosh Civility Project has been created by a group of community leaders as follows: the Oshkosh Area Community Foundation; the University of Wisconsin-Oshkosh; the Oshkosh Northwestern; Oshkosh Area United Way; Oshkosh Public Library; Oshkosh Area School District; and the Oshkosh Chamber of Commerce; and

WHEREAS, the leaders of the Oshkosh Civility Project have asked other community leaders to ceremonially endorse the Oshkosh Civility Pledge; and

WHEREAS, individual members of the Oshkosh Common Council and city management have participated in discussions to improve our community through a dedication to the principles of civility; and

WHEREAS, the Oshkosh Civility Project seeks the formal endorsement of the City of Oshkosh in the Oshkosh Civility Project;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oshkosh:

1. That the Oshkosh Common Council endorses the Oshkosh Civility Pledge, which states as follows: We built a stronger and more diverse community by actively sharing our ideas and opinions with others in thoughtful and considerate ways. By practicing this basic commitment to civility, we learn and grow from one another – even in disagreement.
2. That the Council will endorse and put into practice the identified skills by the Oshkosh Civility Project that are designed to promote civility.
3. That the Council will, through its actions, endorse these principles and skills by following these basic rules of decorum at Council Meetings and encourage the public to practice these principles in matters coming before the Oshkosh Common Council.



# PAY ATTEN- TION

Be aware and  
attend to the world and  
the people around you.

# Listen



People are here to grow  
together. **UNDERSTAND**  
their points of view.



# BE INCLUSIVE

Welcome all groups of citizens working for  
the **GREATER GOOD** of the community.

# DON'T GOSSIP



And don't accept when  
others choose to do so.

# Show Respect

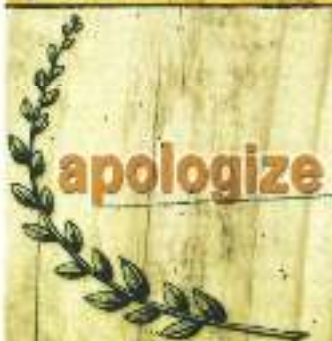


Honor other people and  
their opinions, especially in the  
midst of a disagreement.

LOOK FOR  
OPPORTUNITIES  
TO AGREE.  
DON'T CONTRADICT  
JUST TO DO SO.



# BE AGREE- ABLE



# apologize

Be sincere and repair  
damaged relationships.

# GIVE constructive criticism



When disagreeing,  
stick to the issues and  
don't launch personal attacks.



Don't shift  
responsibility  
and blame  
onto others.  
**share**  
responsibility  
equally.

# TAKE RESPON- SIBILITY

It's not what you say.  
It's how you say it.

OshkoshCivilityProject.org  
OshkoshCivilityProject@gmail.com

# Speak your Peace

The Oshkosh Civility Project

The Oshkosh Civility Project is a community-based effort to encourage better practices of interpersonal communication. It is modeled after a campaign organized by the South-Superior Area Community Foundation based on Choosing Civility by P.M. Forni. The Project is sponsored by the Oshkosh Area Community Foundation, the University of Wisconsin-Oshkosh and The Oshkosh Northwestern.

Definitions,  
Sample Agenda, Sample  
Motions and Voting  
Requirements

## **DEFINITIONS**

### **ORDINANCE**

An ORDINANCE is legislation adopted by the Common Council which enacts a municipal law and becomes part of the City of Oshkosh Municipal Codes. An Ordinance is presented two times before the Council before it is adopted. (First Reading & Second Reading)

The Council has the power to Suspend the Rules and Adopt an Ordinance at First Reading.

### **RESOLUTION**

A RESOLUTION is an action of the Common Council which gives authorization, approval, or a directive to the city administration and relates primarily to internal city affairs.

### **PROCLAMATION**

A PROCLAMATION is presented by the Mayor to an organization or individual of the community for outstanding service, in honor of a celebration, or any special occasion



**OSHKOSH COMMON COUNCIL AGENDA**  
**COUNCIL CHAMBERS, CITY HALL**  
**OSHKOSH, WISCONSIN**  
**DATE**

**NOTE:** *The Common Council will be meeting from 4:45 p.m. / 5:00 p.m. – 5:45 p.m. for a Workshop on XXX (if there is a workshop or closed session prior to the start of the regular meeting, it will be noted here)*

- A. CALL TO ORDER (6:00 p.m.)**                      **VOTING FIRST:** Council Member XXX
- B. ROLL CALL**
- C. INVOCATION**
- D. PLEDGE OF ALLEGIANCE** (students from city schools or Council Member)
- E. PRESENTATIONS OR INTRODUCTIONS**  
(ex. awards, public information presentations, introductions of new staff members)
- F. CITIZEN STATEMENTS** (Citizens are to address the Council only. Statements are limited to five (5) minutes; they must address items that are not listed on the Council meeting agenda, are limited to issues that have an impact on the City of Oshkosh and the Common Council may address at a future meeting, and must not include endorsements of any candidates or other electioneering.) If you require more time please inform the Mayor at the beginning of your presentation.
- G. PUBLIC HEARINGS** (NOTE: Items designated with an asterisk \* will not be voted on)  
(Public Hearings are required by statute for certain types of actions that come before council, if a public hearing is required for an item, that item will be listed under this category)
  - 1.      Res YR-XX    Approve Final Resolution for Special Assessments (Sanitary Sewer Main & Sanitary Sewer Laterals / Ontario Street & Murdock Avenue
  - \*      2.      Ord YR-XX    Approve Zone Change from R-1 to M-3 / 3156 Algoma Blvd
  - \*      3.      Ord YR-XX    Approve Official Mapping of the Extension of Progress Drive from its Current Termini Southeasterly to Vinland Street

## **OSHKOSH COMMON COUNCIL – EXAMPLE**

### **H. CONSENT AGENDA ITEMS**

(Consent Agenda Items are those items of a routine administrative nature that are voted on by the Council in a single roll call vote. Staff recommends approval of all items. Any member of the public or Common Council may request that an item be removed from the Consent Agenda for discussion)

4. Approve Bills Presented by the Finance Director
5. Approve Cash Report from \_\_\_\_\_
6. Approve Minutes from \_\_\_\_\_ Council Meeting
7. Receipt & Filing of Library Minutes from \_\_\_\_\_ (*same for other boards and commissions*)
8. Receipt of Claim filed with the City's Insurance Company
9. Res YR-XX (These are resolutions such as equipment bids, public
10. Res YR-XX works contract, change orders, leases, agreements,
11. Res YR-XX special events or city licenses. These resolutions are
12. Res YR-XX generally matters that are "routine" in nature.
13. Res YR-XX The Consent Agenda is approved in a single motion and
14. Res YR-XX vote. Any Council member may request that a
15. Res YR-XX resolution be removed from the Consent Agenda to be
16. Res YR-XX voted on separately if they wish to vote in the negative.
17. Res YR-XX Items may be discussed without pulling.)

### **I. ITEMS REMOVED FROM CONSENT AGENDA**

### **J. PENDING ORDINANCES**

18. Ord YR-XX (Ordinances that are before the Council on "Second Reading" to be considered for adoption)

### **K. NEW ORDINANCES** (NOTE: Items designated with an asterisk \* will not be voted on)

- \* 19. Ord YR-XX (Ordinances that are before the council on "First Reading" & are to be laid over to the next meeting for consideration for adoption. NOTE: Periodically a request is made to "Suspend the Rules" and "Adopt" the ordinance a First Reading)

### **L. PENDING RESOLUTIONS**

(Resolutions that have been laid over from a previous meeting of the Council)



## ***OSHKOSH COMMON COUNCIL – EXAMPLE***

### **M. NEW RESOLUTIONS**

- 20. Res YR-XX (Resolutions that are before the Council to be considered for adoption)
- 21. Res YR-XX ~~Approval of Conditional Use Permit; Planned Development for Installation of Electronic Message Center Cabinet Type Wall Sign 50 Wisconsin Street (Plan Commission Recommends Denial)~~ **WITHDRAWN**

### **N. COUNCIL DISCUSSION, DIRECTION TO CITY MANAGER & FUTURE AGENDA ITEMS**

- 22. Future Agenda Items:
- 23. Future Workshops:
  - A) Workshop on XXX @ 4:45 p.m. / 5:00 p.m.

### **O. MEMBER ANNOUNCEMENTS & STATEMENTS**

- 24. Report of Council Liaison for Boards & Commissions
- 25. Announcement of New Facility Opening

### **P. CITY MANAGER ANNOUNCEMENTS & STATEMENTS**

- 26. Report Regarding Engineering Services Agreements
- 27. Cooperative Purchase of Vehicles or Equipment
- 28. Outstanding Issues

### **Q. CLOSED MEETING MOTION (City Manager's Office, Room 402, City Hall):**

(This segment is a meeting of information and discussion of the Council as provided by state statutes and is closed to the public – closed sessions may be held before or after the meeting as time may permit)

### **R. ADJOURN**

## SAMPLE MOTIONS

### MOTION TO ADOPT A RESOLUTION OR ITEM

I MOVE TO ADOPT ....

I MOVE TO APPROVE ...

(ALWAYS MAKE THE MOTION IN THE AFFIRMATIVE)

### MOTION TO SEPARATE ITEMS

MOVE TO DIVIDE THE ISSUE TO MAKE (ITEM) A AND THE REMAINING (ITEMS) B

### MOTION TO AMEND A MOTION ON THE FLOOR

MOVE TO AMEND TO \_\_\_\_\_

MOVE TO AMEND BY STRIKING OUT \_\_\_\_\_

MOVE TO AMEND BY INSERTING \_\_\_\_\_

MOVE TO AMEND BY STRIKING OUT \_\_\_\_\_ AND INSERTING \_\_\_\_\_

MOVE TO AMEND BY ADDING \_\_\_\_\_

MOVE TO AMEND BY DELETING \_\_\_\_\_

NOTE: THIS MOTION CAN ALSO BE USED TO AMEND AN AMENDMENT  
IT MAY HELP TO ALSO STATE THE INTENTION OF THE AMENDMENT TO  
MAKE IT CLEAR WHAT IS BEING VOTED UPON

### MOTION TO RECONSIDER AN ACTION AFTER FINAL VOTE

MOVE TO RECONSIDER ITEM #

NOTE: THIS MOTION MUST BE MADE AT THE MEETING THE ACTION WAS  
TAKEN OR AT THE NEXT SUCCESSIVE MEETING, AND MUST BE  
MADE BY A MEMBER WHO VOTED WITH THE MAJORITY

## VOTING REQUIREMENTS –

<b>MAJORITY – 4 members</b>	<b>2/3 members OR 5 members</b>	<b>3/4 members OR 6 members</b>
In general, Ordinances or Resolutions §64.07(3)	Budget Alterations §65.90(5)(a)	Removal of City Officers by Council §17.12(1)(d)
Condemnation for streets on petition §62.22(4)(c)	Charter Ordinances §66.01(2)	Electing to do own construction work §62.15(1)
Confirmation of Appointments §62.11(3)	annexation ordinances §66.021(7), §66.021(12), §66.021(15), §66.024	Zoning amendments when a protesting petition is filed §62.23(7)(d)(2m) (3/4 of members present and voting)
	Rejecting all bids under bidding law §62.15(5)	Detach territory §66.022
	Alteration of Aldermanic Districts §62.08(4)	Determinations of necessity under 62.22(4)(d) for purposes of opening widening, etc. streets w/o a petition (requires 4/5 vote of members)
	Authorize clerk to issue check in excess of available or appropriated funds §66.042(7)	
	Relief from conditions of gift or dedications to municipality §66.27(1)	
	Creation of redevelopment authorities and certain redevelopment plans §66.406(4); §66.431(6)(b)(2); §66.431(11)(b); §66.4325	

Notes: voting requirements for Council are based on the membership of the Council not on quorum. So a majority is 4 of 7 total members, if there are only 5 members present, passage of an ordinance or resolution still requires a majority of membership or 4 votes to pass.

Less than a quorum may compel attendance of absent members or adjourn pursuant to §62.11(3)(b) and §2-10(G) Oshkosh Municipal Code.

## Controlling Public or Members in Violation of Rules of Decorum

If any member of the Council believes that there is a violation of the Council Rules, the Council member may request that the Mayor stop the speaker. The Mayor may also do this independently.

A suggested approach for dealing with persons who may be out of order:

Give 2 warnings.

"Mr. X, your time is up (or identify other violation of the rules), please take your seat."

"Mr. X, please take your seat."

Mayor rules that the person is violating council rules and is out of order.

"Mr. X you are in violation of the Council rules. You need to stop and take your seat"

If speaker continues -- you should assess the situation, some may be resolved fairly easily, others may require staff assistance or even that the police be called:

- a. Ask a staff member to take the person from the room and assist them - "(staff member) \_\_\_\_\_ may we have your assistance, can you please take Mr. X outside the meeting and assist him with his further questions. "
- b. Mayor may call a break – "I am going to call a break at this time, Council will reconvene in 5 minutes."  
Take break – turn off cameras – let officer deal with person
- c. "Officer \_\_\_\_\_ may we have your assistance to please remove Mr. X at this time."

2 members may appeal any decision of the Mayor, second is required & majority vote.

Council may, but is not required to under its rules, formalize the finding of disruption and removal:

I move to make a finding that \_\_\_\_\_'s behavior disrupted the meeting (you may insert specific findings -- failed to follow the rules after being called to order by the Mayor, repeatedly failed to come to order, yelled, was obscene, etc...); \_\_\_\_\_'s conduct was outside the scope of our rules and was a breach of the peace. (second, vote).

# Open Meetings and Public Records

Video training pertaining to these topics is available for you to view at:

Open meetings: [https://www.youtube.com/watch?v=8gW-fjqwR6Q&list=PLqRylHmMyMnf586vtFr9bkDKprGv\\_ynGr&index=5](https://www.youtube.com/watch?v=8gW-fjqwR6Q&list=PLqRylHmMyMnf586vtFr9bkDKprGv_ynGr&index=5)

Public Records:

[https://www.youtube.com/watch?v=bOwZz64AUAY&list=PLqRylHmMyMnf586vtFr9bkDKprGv\\_ynGr&index=4](https://www.youtube.com/watch?v=bOwZz64AUAY&list=PLqRylHmMyMnf586vtFr9bkDKprGv_ynGr&index=4)

**PUBLIC POLICY**  
**OPEN MEETINGS AND PUBLIC RECORDS**

In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

§19.81 (1) and (2) Wisconsin Statutes

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## OPEN MEETINGS

The Open Meetings law requires all meetings of State and Local governmental bodies to be publicly held in places reasonably accessible to and open to all citizens at all times, unless otherwise expressly provided by law.

The Open Meetings law applies to “meetings”. A meeting is defined as 1) the convening of members of a governmental body 2) for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.

- 1) A “governmental body” is defined as: “a state or local agency, board, commission, committee, council, department or public body corporate and politic, created by constitution, statute, ordinance, rule or order ... or a formally constituted subunit of the foregoing.”
- 2) “Meeting” includes regular and special meetings of the board or commission but may also include other types of interactions and gatherings, a meeting may be formal or informal, and includes discussion or information gathering on matters within the Board’s realm of responsibility.

Two Tests -- the purpose requirement and the numbers requirement.

The Purpose Test -- What is the purpose of this gathering? Are you exercising the responsibilities, authority, power or duties delegated to this board? Are you discussing or gathering information on a matter before you or likely to come before you?

The Numbers Test – If one half or more of the members of the body are present, it is rebuttably presumed to be a meeting. The numbers test is met when a number sufficient to determine the body’s course of action on the business under consideration is present. In certain cases, this number may be less than a majority of the quorum. You may hear the term negative quorum which means the number that may defeat any motion or action –in some cases such as items that may require a supermajority vote, the negative quorum may be less than one half of the body. In regard to the numbers test, you may also consider the possibility of further sharing information such as through a walking quorum which we will discuss further below.

If both tests are met, then there is a meeting of the governmental body.

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## Communication Outside of a Regular Meeting:

*Social gatherings* -- the statute specifically excludes social or chance gatherings and other gatherings where you are not exercising your authority, power, or responsibilities.

*Telephone conference calls* would be very similar to in-person conversation and exchanges and are viewed as a convening of the members of the body.

*Written correspondence* – The circulation of a paper or hard copy memorandum or letter among the members of a governmental body has historically not been considered a “convening of the members” for purposes of the open meetings law. The correspondence will be a public record, but since it is going to usually involve a largely one-way flow of communication, with any exchanges that may occur spread out over time, and little or no conversation-like exchange between members, the open meetings law is generally not going to restrict this type of information. This technique is not recommended for quasi-judicial matters because preparation of a memorandum by a body’s member prior to the meeting will not take into consideration all of the facts that may ultimately form the basis for the body’s decision.

*Electronic Communications* such as email and instant messaging may constitute a convening of the members depending on how the communication medium is used. No court has yet applied the open meetings law to this type of correspondence, but it is likely the court will evaluate this similarly to other types of situations it has evaluated and look at whether it is more like written correspondence or more like in-person communication.

The AG’s office strongly discourages the members of every governmental body from using electronic mail to communicate about issues within the body’s realm of authority. The AG’s office has provided guidance that suggests courts are likely to consider (1) the number of participants involved in the communications; (2) the number of communications regarding the subject; (3) the time frame within which the electronic communications occurred; and (4) the extent of the conversation-like interactions reflected in the communications.

This type of communication may be more problematic from an open government standpoint because of the very rapid nature that the back-and-forth exchanges may take on; the conversational tones many use in email correspondence; and the potential that although you are sending to only one person, your email may be forwarded and commented upon and you, as the sender, will have no control over the scope or direction of further exchange.

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## *Walking Quorums*

A “walking quorum” is a series of gatherings or exchanges among separate members of a governmental body who agree tacitly or explicitly to act uniformly in sufficient number to reach a quorum. The requirements of the open meetings law cannot be circumvented by using an agent or surrogate to contact the members of governmental bodies through a series of individual contacts. The essential feature of the “walking quorum” is the element of agreement among members of a body to act uniformly in sufficient numbers to reach a quorum (or control an action). Where there is no agreement, theoretically exchanges may take place without violating the open meetings law, however this is not recommended.

General discussion regarding public policy and matters should be held in public meetings unless an exception to the open meetings law applies.

## *Meetings of Multiple Bodies/Notices of Observation*

When a quorum of members of one governmental body attends a meeting of another governmental body under circumstances that are not chance or social, in order to gather information or otherwise engage in governmental business regarding a subject over which they have the decision-making responsibility, both governmental units must be noticed.

If you are invited to and planning to attend something other than Council meetings or Boards/Commissions to which you are assigned, that may fit within your City responsibilities, let staff know, so that the matter can be noticed properly if needed.

*Generally, it is easier and safer to avoid the potential issues being raised than to try to defend actions later.*

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If the Open Meetings law applies, what is required?

Notice – reasonably apprising the public and media of the topics to be discussed and items to be acted upon

Timing – at least 24 hours in advance; 24 hours is a minimum, greater notice is most often preferable

Closed Sessions must be noticed – limited to statutory exceptions

Accessibility – must be reasonably accessible, open to the public, reasonably accessible to persons with disabilities

Tape recording/videotaping -- o.k. as long as it does not interfere with the conduct of the meeting

Citizen participation – The open meetings law allows citizens the right to attend and observe but does not require that the public be allowed to speak or actively participate, unless required by another statute, such as a public hearing on zoning issues. The governmental body is free to determine for itself whether and to what extent it will allow citizen participation.

Minutes and recording of votes – you are required to keep a record of the motions and roll call votes of each meeting of the body

### Public Meetings v. Public Hearings

Every meeting of the Council is a public meeting and must meet the requirements of the Wisconsin Open Meetings Law. A meeting is for the purpose of conducting the business of the city and while public notice and opportunity to observe are required, public involvement is not required by statute.

Public Hearings are required by statute in some cases for the purpose of gathering information and to allow public comment on particular items prior to action. When public hearing are required, they will be specifically designated on the Board, Commission or Council Agenda.

Other resources: the Attorney General for the State of Wisconsin has a Guide to Open Meetings Law on their website at [www.doj.state.wi.us](http://www.doj.state.wi.us).

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## **PUBLIC RECORDS**

Generally, official records will be maintained by staff so you do not need to keep copies of the agenda, minutes and other items that you receive from staff, except as it may be helpful to you in doing your functions.

If you receive private correspondence, letters, emails, texts, instant messages, or any other form of recorded or written communication or information related to the business of this body, those are also public documents. The records must be kept – you may keep them yourself or you may give the records to staff to maintain. The general retention period is 7 years so whatever method you choose, you should make sure to maintain the records for a period of at least 7 years.

Staff will also respond to all records requests. If there is a request for documents that includes for example, emails to the members. Staff would contact members and request that those members supply all information that they have in their possession that may be responsive to the request. Staff would then evaluate all information gathered and provide the appropriate information responsive to the request.

Using your own computer/email address/social media account for the conduct of governmental business – email, blogging, etc..... may raise concerns related to record retention and the privacy of the “private” system may be challenged, so caution is advised.

Council members are given City email addresses. Emails using the City email address are automatically archived by the City’s computer system.

If you receive an email, instant message or other communication to a private email address or account outside of the city email system, you should archive the communication in some manner by keeping your own folder of communications or by copying the email or information into an email to city staff or the board or commission email address. You may include a note that you received it through a personal account and are copying the city email for archive purposes.

Other resources: the Attorney General for the State of Wisconsin has a Guide to the Wisconsin Public Records Law on their website at [www.doj.state.wi.us](http://www.doj.state.wi.us).

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# Ethics

Video training pertaining to the topic is available for you to view at:

[https://www.youtube.com/watch?v=\\_u4e7bGYtQ0&list=PLqRylHmMyMnf586vtFr9bkDKprGv\\_ynGr&index=3](https://www.youtube.com/watch?v=_u4e7bGYtQ0&list=PLqRylHmMyMnf586vtFr9bkDKprGv_ynGr&index=3)

## ETHICS

In general, there are two kinds of general ethics restrictions placed upon local officials. The first restricts an official from personally profiting from holding the public office. The second restricts an official from participating in decisions in which the official has a personal financial interest. Related to these the statute specifically includes a prohibition on certain actions as either a local public official or candidate in relation to political promises and contributions.

### Accepting items

- A. A local public official may not accept items or services of substantial\* value for private benefit, or for the benefit of the official's immediate family or associated organizations, if offered because of public position.
- B. A local public official may not accept (and no one may offer or give) anything of value that could reasonably be expected to influence the official's vote, official actions or judgment.
- C. A local public official may not accept (and no one may offer or give) anything of value that could reasonably be considered a reward for any official action or inaction.

### Controlling conflicting interests

- A. A local public official may not take official action substantially affecting a matter in which the official, the official's immediate family, or associated organization has a substantial financial interest.
- B. A local public official may not use office or position to produce a substantial benefit for official, family, or associated organization\*\*.

If you have any questions about an upcoming item and whether you should vote on it or if you have any questions about a gratuity or anything else where you are concerned about the ethics of it, please feel free to call the City Attorney's office.

\* substantial means not nominal, insignificant or trivial

\*\* "Associated", when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

What should you do if you have a financial interest in a matter coming before you or if you identify a conflict of interest in relation to a matter coming before you?

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Do not participate in the discussion and do not vote on the matter. The attorney general's office recommends removing yourself from the room. In some cases, this may be more disruptive to the meeting than simply not participating. But if you are concerned that your presence may influence your fellow council or board members, you should consider stepping away from the table to the public portion of the room or leaving the room.

If you receive something that you believe is related to your official position and would be a violation of the laws or would create an appearance of undue influence, you have several options. You may return the item; you may give it to the city, another public institution or a charitable organization; or you may purchase the item for its full value if it is something that you want to keep or an event you wish to attend.

#### Enforcement and Penalties under Chapter 19 General Ethics Rules

While staff and the City Attorney's office may give you advice in regard to these matters, the final decision will be yours to make and enforcement and penalties will be personal to you.

Complaints can be made to the District Attorney and Attorney General's offices regarding violations of the state ethics code and you may be personally fined for violations. Penalties include a forfeiture of not more than \$1000 for each violation, plus the value of the item and costs.

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In addition to the general ethics provisions in Chapter 19 of the Wisconsin Statutes, there are several criminal statutes that also relate to official conduct that are important to be aware of. Those statutes include:

#### **§946.12 Wisconsin Statutes - Misconduct in Public Office**

Any official who does any of the following is subject to prosecution under the Misconduct in Public Office Statute:

- Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty
- Does an act which the person knows exceeds their lawful authority or is forbidden by law in the persons official capacity
- Exercises a discretionary power in a manner inconsistent with the duties of their office or the rights of others with the intent to obtain a dishonest advantage personally or for another
- Intentionally and materially falsifies an entry in an account or record book, report or statement
- Under the color of the office, intentionally solicits or accepts for the performance of any service or duty anything of value

Penalty: Violation is a Class I felony and subjects the person to a fine of not more than \$10,000, imprisonment for not more than 3½ years, or both.

#### **§946.13 Wisconsin Statutes - Private Interest in Public Contracts**

Municipal officials are prohibited from negotiating or bidding on contracts in which the public official has a financial interest if they also have an official responsibility to act in relation to that contract and cannot in their official capacity participate in the making of a contract in which they have a direct or indirect financial interest.

It is important to note that this is a criminal statute that is strict liability and does not require the intent to violate; and that abstaining from voting on the contract will not prevent a violation.

Prohibits municipal officials from having a private financial interest in a public contract.

- 1) Prohibition Against Private Action. A public official may not in his or her private capacity negotiate or bid for or enter into a contract in which the public official has a direct or indirect financial interest if the official is “authorized or required by law
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to participate” in his or her capacity as such officer or employee in the making of that contract. § 946.13(1)(a).

- 2) Prohibition Against Official Action. A public official may not participate in the making of a contract in his or her official capacity if the official has a direct or indirect financial interest in the contract. § 946.13(1)(b).

There are a few exceptions in this statute pertaining primarily to smaller contracts of less than \$15,000 per year and financing relationships.

A Contract entered into in violation of this section is void.

Penalty: Violation is a Class I felony and subjects the person to a fine of not more than \$10,000, imprisonment for not more than 3½ years, or both.

### **§946.10 Wisconsin Statutes - Bribery**

Public officials are prohibited from directly or indirectly accepting or offering to accept any property or personal advantage based on an understanding that the official will act in a certain manner regarding any matter pending or that might come before them in their official capacity

Penalty: Violation is a Class H felony and subjects the person to a fine of not more than \$10,000, imprisonment for not more than 6 years, or both.

### **Compatibility of Offices**

The Compatibility Doctrine is a common law prohibition, created by courts rather than by a statute.

The same person cannot hold two offices or office and position where one post is superior to the other or where, from public policy perspective, it is improper for one person to discharge duties of both posts.

The Practical effect of this rule is that Governing body members cannot hold other positions/employment with municipality unless expressly authorized.

#### **Compatibility Doctrine Violations**

If there is a Compatibility Doctrine Violation, courts have concluded that the person has vacated the first office if they take an incompatible second office.

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## **Positions Created during Term**

During the Council term for which you were elected you may not apply for or take a position that was created during your term of office. This prohibition would apply even if you would resign first. For example, if a position is created in the annual budget, a council member is not eligible to apply for that position.

However, a council member may be appointed to office or position not created during member's term of office if they resign first.

Governing body members may run at any time for new or existing elective offices.

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## **Additional Resources**

The Statute of Wisconsin Ethics Commission provides helpful Guidelines for Local Public Officials pertaining to Ethics which are included in the following pages.

State of Wisconsin Ethics Commission at [www.ethics.wi.gov](http://www.ethics.wi.gov)

League of Wisconsin Municipalities: <https://www.lwm-info.org>

League of Wisconsin Municipalities FAQ's: <https://www.lwm-info.org/831/Frequently-Asked-Questions>

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# Wisconsin Ethics Commission

## *Citizen's Guide*

### Standards Of Conduct For Local Government Officials

*Wisconsin Statutes* establish standards of conduct for all of our state's governmental officials, including local officials. These legal requirements apply to elected and key appointed officials of our state's counties, cities, villages, towns, school boards, and sewerage and other special districts.<sup>1</sup>

**Standards of conduct.** In general, a local public official should not:

- ***ACT OFFICIALLY IN A MATTER IN WHICH THE OFFICIAL IS PRIVATELY INTERESTED***
- ***USE GOVERNMENT POSITION FOR PRIVATE FINANCIAL BENEFIT***
- ***ACCEPT TRANSPORTATION, LODGING, FOOD, BEVERAGES, OR ANYTHING ELSE OF MORE THAN TOKEN VALUE OFFERED BECAUSE THE OFFICIAL HOLDS A GOVERNMENT POSITION***
- ***SOLICIT OR ACCEPT REWARDS OR ITEMS OR SERVICES LIKELY TO INFLUENCE THE OFFICIAL***
- ***OFFER OR PROVIDE INFLUENCE IN EXCHANGE FOR CAMPAIGN CONTRIBUTIONS***
- ***BE FINANCIALLY INTERESTED IN A GOVERNMENT CONTRACT THE VALUE OF WHICH EXCEEDS \$15,000 AND FOR WHICH THE OFFICIAL IS AUTHORIZED TO TAKE SOME DISCRETIONARY ACTION (EVEN IF THE OFFICIAL ABSTAINS)***<sup>2</sup>

**Financial disclosure.** Some local governments make available a list of the employers and financial interests of their government's officials.<sup>3</sup> Most do not. The decision to collect this information is one that the legislature has left to each unit of government. To learn if your county, municipality, or town provides this information, ask your county or municipal clerk.

**Addressing issues before they become problems.** To deal with a conflict between a private interest and governmental responsibilities before an official takes a vote or enters into discussions on a matter, the official can either resolve the matter by relinquishing the private interest or mitigate the problem by temporarily withdrawing from exercise of governmental responsibilities. By seeking advice beforehand, an official can determine whether statutory restrictions permit the official to participate in a matter or to accept items or services of value.

Ordinarily, the legal advisor for the unit of government of which the official's position is a part is in the best position to advise the government official about a matter involving ethical standards of conduct. Sometimes, a statewide association of local governments will advise an official.<sup>4</sup>

If, after studying the legal standards and gathering the pertinent facts, the legal counsel is uncertain about what advice to offer, the lawyer may direct a letter to the Wisconsin Ethics Commission stating the pertinent facts and law, tentative conclusion, and basis for it, and ask that the Wisconsin Ethics Commission issue an opinion concerning the interpretation of §19.59, the Code of Ethics for Local Government Officials, Employees and Candidates. Written requests for advice are confidential. No

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<sup>1</sup> §19.59, *Wisconsin Statutes*.

<sup>2</sup> §946.13, *Wisconsin Statutes*. See text of statutes for exceptions to general rule.

<sup>3</sup> Among the local governments requiring their officials to identify information about their sources of income and investments are the cities of Madison and Milwaukee and the counties of Dane, Milwaukee, and Wood.

<sup>4</sup> Examples include Wisconsin Counties Association, League of Wisconsin Municipalities, Wisconsin Towns Association, Wisconsin Association of School Boards.

member or employee of the Ethics Commission may make public the identity of anyone requesting an advisory opinion or of persons mentioned in an opinion. Periodically, the Commission publishes summaries of its opinions after making sufficient alterations to prevent the identification of the requestor and persons mentioned in the opinions. The *Statutes* do not authorize the Commission to issue an opinion to a citizen or to an official or representative of a local government other than the local government's legal counsel.

**Complaints.** If you believe that an official of a county, city, village, town, school board, or special purpose district has violated a standard of conduct that state law requires the official to observe, you may file a complaint with the Commission, or with the district attorney for the county in which the activity occurred.

Your complaint should describe the pertinent facts succinctly. State that you swear or affirm that the information you are providing is true to the best of your knowledge, information, and belief. Have a notary or other person authorized to administer an oath witness your signature to the complaint. Deliver the complaint to the Commission or district attorney, in person, or by mail, or other appropriate way you find convenient.

Allow the Commission or district attorney a reasonable length of time to look into the matter. It may take several weeks to look into the facts and law in order to make a good decision about how to proceed.

If the complaint about a local public official is filed with the Wisconsin Ethics Commission, the Commission's policy is to refer it to the local district attorney. If the district attorney has not responded to a complaint within 60 days of a referral, the Commission may refer the matter to the Attorney General.

Individuals may also file a complaint directly with the district attorney. If the district attorney has not filed a complaint or replied to you within 20 days of your filing a complaint with that office, you may send a copy of your complaint to the Attorney General's Office, explaining that the district attorney, after considering your complaint for 20 days or more, has not begun an action against the person you complained about, and ask the Attorney General to enforce the complaint. If the Attorney General also declines to prosecute the matter, you will at least have the satisfaction that two law enforcement agencies have had the opportunity to review your complaint and act upon it. The Wisconsin Ethics Commission cannot overturn the decisions of the district attorney or Attorney General or, independent of them, enforce standards of conduct for local government officials.

# Wisconsin Ethics Commission

## Local officials' receipt of food, drink, favors, services, etc.

Wisconsin law forbids a public official to use free or discounted transportation, traveling accommodation, or communication services for which the supplier would usually charge [§946.11, Wisconsin Statutes; Art. 13, §11, Wisconsin Constitution],<sup>1</sup> Otherwise – Consistent with the statutes administered by the Wisconsin Ethics Commission, *local public officials*<sup>2</sup> **may accept and retain:**

a. **ITEMS AND SERVICES UNRELATED TO PUBLIC POSITION.**

Food, drink, transportation, lodging, items, and services which are offered for a reason unrelated to the recipient's holding a public position [§ 19.59(1)(a)] and which could not reasonably be expected to influence an official's vote, official actions or judgment, nor reasonably be considered a reward for any official action or inaction;

b. **EXPENSES PROVIDED BY OR FOR THE BENEFIT OF THE LOCAL GOVERNMENTAL UNIT.**

Food, drink, transportation, lodging, or payment or reimbursement of costs that are provided by or for the benefit of the local governmental unit, not for a private benefit; and

c. **ITEMS OF INSUBSTANTIAL VALUE.**

Mere tokens and items or services of only nominal, insignificant, or trivial value.

### STATUTORY RESTRAINTS

Except as noted on the other side of the page, *local public officials should not accept:*

1. **ITEMS OR SERVICES OFFERED BECAUSE OF PUBLIC POSITION.** Any item or service, including food, drink, and travel, of more than nominal value offered because of the person's holding a public office [§ 19.59(1)(a)];
2. **ITEMS THAT COULD INFLUENCE JUDGMENT.** Any item or service that could reasonably be expected to influence an official's vote, official actions or judgment [§19.59(1)(b)];
3. **REWARDS FOR OFFICIAL ACTION.** Any item or service that could reasonably be considered a reward for any official action or inaction [§19.59(1)(b)]; and
4. **TRANSPORTATION OR TRAVELING ACCOMMODATIONS.** Discounted transportation, traveling accommodations, or communication services for which the supplier would usually charge [§946.11; Art. 13, §11].

<sup>1</sup> Consult local ordinances and other state law not administered by the Wisconsin Ethics Commission for any additional restrictions.

<sup>2</sup> "Local public officials" include: (a) elected officers of political subdivisions and special purpose districts of the state; (b) county administrators or administrative coordinators; (c) city or village managers; (d) individuals appointed to a position in a political subdivision or special purpose district for a specified term; and (e) individuals appointed to a position by the governing body, executive, or administrative head of a political subdivision or special purpose district and serving at the pleasure of the appointing authority.

## Wisconsin Ethics Commission

Local officials' receipt of food, drink, favors, services, etc.

**To analyze a situation in which you are offered items or services, ask yourself these questions:**

1. With respect to the item or service offered:
  - a. Is it being offered because of my public position?
  - b. Is it of more than nominal or insignificant value?
  - c. Is it primarily for my personal benefit rather than for the benefit of my local unit of government?

If you answer "**yes**" to all three questions, you may not accept the item or service.

2. Would it be reasonable for someone to believe that the item or service is likely to influence my judgment or actions or that it is a reward for past action? If you answer "**yes**," you may not accept the item or service.

**If you have any doubts about a situation, seek advice from your local governmental attorney.**

# Wisconsin Ethics Commission

## *For State and Local Public Officials*

### Mitigating Conflicting Interests: Private Interest Vs. Public Responsibility

In a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government. Citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature. Standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material. State public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments. [WIS. STAT. § 19.45\(1\)](#).

#### ACTING IN AN OFFICIAL CAPACITY

MAKING POLICY. When a public official or a board, commission, or other body of which an official is a member is called upon to propose or to act on legislation, to promulgate a rule, or to issue a general policy, the official may participate in that action even though the action will affect the official, a member of the official's immediate family, or an organization with which the official is associated<sup>1</sup>, as long as:

- The official's action affects a whole class of similarly situated interests;
- Neither the official's interest, the interest of a member of the official's immediate family, nor the interest of a business or organization with which the official is associated<sup>1</sup> is significant when compared to all affected interests in the class; AND
- The action's effect on the interests of the official, of a member of the official's immediate family, or of the related business or organization is neither significantly greater nor less than upon other members of the class.

See e.g., [2008 GAB 02](#); [11 Op. Eth Bd 9 \(1989\)](#); [8 Op. Eth Bd 33 \(1985\)](#); [5 Op. Eth Bd 89, 65, 59](#); [4 Op. Eth Bd 104 \(1981\)](#).

APPLYING POLICY. A public official should not, in an official capacity, participate in or perform any discretionary action with respect to the making, grant, or imposition of an award, sanction, permit, license, grant, contract, offer of employment, or agreement in which the official or a member of the official's immediate family or a business or organization with which the official is associated has a substantial financial interest, direct or indirect. WIS. STAT. §§ [19.45\(2\)](#), [19.46\(1\)](#), [19.59\(1\)\(a\)](#) and [\(c\)](#). In addition, a public official should not, in an official capacity, participate in a matter affecting a business or organization from which the official or a member of the official's immediate family receives substantial compensation or income. See WIS. STAT. §§ [19.45\(3\)](#), [19.59\(1\)\(b\)](#); [2013 GAB 01](#), [1994 Wis Eth Bd 5](#).

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<sup>1</sup> "Associated" included any organization in which an individual or a member of his or her immediate family is a director, officer, or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity, or of which an individual or a member of his or her immediate family is an authorized representative or agent. [WIS. STAT. § 19.42\(2\)](#).

## HOW TO WITHDRAW FROM OFFICIAL ACTION

When a matter in which a public official should not participate comes before the legislature, a board, commission, or other body of which the official is a member, the official should refrain from discussion, deliberations, or votes related to that matter and ask that the body's minutes reflect that the member has withdrawn. The body's remaining members may review the matter and take whatever action they find appropriate. [1992 Wis Eth Bd 22](#).

## ACTING IN A PRIVATE CAPACITY

APPLICATIONS, BIDS, AND CONTRACTS. Usually, a public official should not, in a private capacity, apply, negotiate, bid for, or receive any award, sanction, permit, license, grant, contract, offer of employment, or agreement in which the official has a private financial interest, direct or indirect, if the official is *authorized* to perform in regard to it any governmental function requiring the exercise of discretion, even if the official does not participate in the governmental action or exert any influence on his or her own behalf. [WIS. STAT. § 946.13](#)

REPRESENTING CLIENTS. A public official should not, for compensation or on behalf of an employer, represent an individual, business, or organization before a board, commission, or other body of which an official is a member. The statutory code of ethics is not an obstacle to a local official's partner or business associate representing a client before such board, commission, or other body as long as the official is not financially interested in, and does not exercise control over, the representation. WIS. STAT. §§ [19.45\(3\)](#), [19.45\(7\)](#), [19.59\(1\)\(b\)](#).



# **Wisconsin Ethics Commission**

## *For State And Local Public Officials*

### **Disposition And Reporting Of Gifts**

Occasionally an official receives a gift that the Ethics Code does not permit the official to retain. Appropriate disposition of an item depends on the circumstances.

The Wisconsin Ethics Commission generally recommends that a state or local public official:

- Turn the item over to the official's agency, if the item is one the agency can use or sell (but the agency may not sell the item to a government employee<sup>1</sup>).
- Turn the item over to another state agency or to a public institution, such as a local school, library, or museum that can use the item.
- Donate the item to a charitable organization (other than one of which the official or a family member is an officer, director, or agent).
- Return the item to the donor.
- If the donor is neither a lobbyist nor an organization that employs a lobbyist, purchase the item (by paying the donor the full retail value), and retain it.

#### **Reporting receipt of a gift**

An official, when filing a Statement of Economic Interests with the Ethics Commission, must identify in the Statement each organization or individual (other than a family member) that gave the official a gift valued at more than \$50 during the prior year. Unless the official returned the gift to the donor, the official should identify the donor on the Statement even if the official has redirected the gift to another person, organization, or office or agency or has applied it to the benefit of the state or a local government.

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<sup>1</sup> In an unpublished opinion dated November 16, 2004, Wisconsin's Attorney General stated:

"The Legislature has unambiguously and comprehensively prohibited government agencies from selling to "any employees...any article, material, product or merchandise of whatsoever nature" with three specified exceptions not applicable here. Wis. Stat. §175.10 (1) (2001-02). This statute makes no exception for articles of limited usefulness to an agency.

The plain language of Wis. Stat. §175.10 (1) prohibits a governmental agency from selling to an employee an article that has been turned over to the agency by an employee who was not authorized to receive it under state law, but which the agency cannot use.

If an agency cannot use an article turned over by an employee, the agency, should either give it to the state or to a charitable organization which can put it to good use either for its own purposes or in a resale shop."

## Gift Disposition Resources

### Books, Magazines, CDs, DVDs, Videos

Madison area:

- Madison Public Library, 201 W. Mifflin St. (608) 266-6300
- Memorial Library, 728 State St. (608) 262-3193

For locations of other libraries in Wisconsin and throughout the United States, visit [www.publiclibraries.com](http://www.publiclibraries.com).

### Clothing and Merchandise

Madison area:

- American Red Cross, 4860 Sheboygan Avenue (608) 233-9300
- Goodwill Industries of South Central Wisconsin, 2127 E. Springs Dr. (608) 246-3147
- Salvation Army of Dane County, 3030 Darbo Dr. (608) 256-2321
- St. Vincent de Paul, 1309 Williamson St. (608) 257-0673
- YWCA, 101 E. Mifflin St. (608) 257-1436

For other donation information and locations, you may visit the national websites for the above organizations at: [www.redcross.org](http://www.redcross.org); [www.goodwill.org](http://www.goodwill.org); [www.svdpusa.org](http://www.svdpusa.org); [www.ywca.org](http://www.ywca.org); [www.salvationarmyusa.org](http://www.salvationarmyusa.org).

### Food/Perishables and Non-perishable Food Items

Madison area:

- Second Harvest Foodbank of Southern Wisconsin, 2802 Dairy Drive (608) 223-9121; [www.seconddharvestmadison.org](http://www.seconddharvestmadison.org).
- YWCA, 101 E. Mifflin St. (608) 257-1436
- Salvation Army, 630 E. Washington Ave. (608) 256-2321
- St. Vincent de Paul, 1309 Williamson St. (608) 257-0919

You may also contact a local food pantry or other charitable organization of your choosing. It is always a good idea to call ahead and see what is being accepted and/or what is in greatest need prior to your donation.

### Flowers/Plants

Madison area:

- Madison Senior Center, 330 W. Mifflin St. (608) 266-6581
- Other suggested donation sites are churches and senior centers in the area of your choosing.

Many of the above items are welcomed by Porchlight, Inc., an organization in Madison that provides emergency shelter and assists with homelessness. 306 N. Brooks St. (608) 257-2534.

For other charitable organizations, you may visit the Partners in Giving website at <https://giving.wi.gov/>.

*Please note that the resources listed are simply suggestions for your convenience, and the Wisconsin Ethics Commission does not endorse or recommend any particular charitable organization. If you would like to nominate additional organizations for inclusion on the list, please send an e-mail to [Ethics@wi.gov](mailto:Ethics@wi.gov).*

*This is a guide. For authoritative information consult Wisconsin Statutes.*

*Prepared by the Wisconsin Ethics Commission. 212 E. Washington Ave., 3<sup>rd</sup> Madison, WI 53703 (608) 266-8123*

*Website: <http://ethics.wi.gov> Visit the Commission's website to ensure you have the most current version of this Guideline.*

**ETH-1235**

# Legislative and Quasi-Judicial Matters

Video training pertaining to this topic is available for you to view at:

[https://www.youtube.com/watch?v=PPerbtr9jRM&list=PLqRylHmMyMnf586vtFr9bkDKprGv\\_ynGr&index=2](https://www.youtube.com/watch?v=PPerbtr9jRM&list=PLqRylHmMyMnf586vtFr9bkDKprGv_ynGr&index=2)

Legislative and Quasi-Judicial Roles. The Council operates both as a legislative and quasi-judicial body. It is important to distinguish between these roles.

Legislative actions are actions that affect the community as a whole. Legislative actions involve broader policy choices as opposed to determinations regarding specific individuals, businesses or properties. When the Council reviews or adopts studies, policies, plans, or ordinances, the Council is acting in its legislative capacity. Governmental bodies exercising legislative authority are afforded a great deal of discretion and are generally limited only by procedural, statutory limitations and constitutional concerns.

In contrast, items that are brought by an individual applicant before the Council will require the application of quasi-judicial rules and processes as well as some items initiated by staff or the Council if they affect specific or a limited identifiable group of individuals/properties. Quasi-judicial determinations involve the application of a statute or ordinance to a specific set of facts, particular property or individual/business. They may require fact finding, a formal or informal hearing, and a determination applying the standards and rules to the particular situation.

When the Council is acting in its quasi-judicial capacity, the Council is required to provide Due Process to the person(s) whose rights are affected. The minimum requirements of Due Process include timely and adequate notice; the opportunity to be heard before an impartial body; as well as the opportunity to review the information provided to the Council and question that information and witnesses.

#### *Special Considerations when dealing with individuals or individual properties / Hearings / Quasi-Judicial Hearings*

##### *Avoiding Impartiality / Bias*

In addition to the specific ethics requirements contained in the Wisconsin statutes, when acting in a quasi-judicial manner council members must not harbor bias, or an impermissibly high risk of bias, or prejudice the matter before them.

Does your relationship with the applicant or others related to the case before you bias or prejudice your independent review and judgment of the case? If the answer is yes, you should recuse yourself from hearing the matter.

Avoid even the appearance of Bias or conflict of interest. Balance this with the responsibility to act as a member of the Council when appropriate. Courts have not found a conflict of interest or an impermissibly high risk of bias only because a member has an expertise in a particular area or because a member may have strong feelings about

a particular issue.

Recusal – do not participate in the discussion or the decision, consider physically separating yourself from the Council (sitting in the audience, leaving the meeting), recusal is not the same as abstaining (not voting).

*Due process /fairness and impartiality in a hearing:*

As a Council – ensure impartiality in the process

Ensure that proper notice is provided to affected persons

Provide reasonable opportunity to be heard

Base your decisions on the facts presented at the hearing and the statutory and ordinance standards only

*Other considerations:*

Onsite inspections -

If you go, you need to have permission to go on the property, otherwise it is trespass.

If the Council goes as a group to visit the site, then the public is also allowed to visit as it is an open meeting. Group visits must be noticed as an open meeting.

All questioning and discussion should be saved for the formal meeting setting to allow for adequate opportunity for people to hear the discussion and for the taking of minutes. Information gathered during a site visit must be included in the hearing record to be considered.

Ex parte Communications -- Ex parte Communication is discussion regarding a pending matter not included in the public record. Avoid it. If you do have a discussion, disclose it and encourage citizens that may approach you outside of a meeting to make important information part of the record. Do not consider information gathered in discussions outside of the hearing in the decision, if you feel you cannot set the information aside, consider not hearing the matter.

If your role involves determining the intent of an ordinance and its application to a particular situation. Rely on the text of the ordinance itself first. If the ordinance is not ambiguous, use only the ordinance in making your determination. If a word is defined in the ordinance, use that definition. If a word is not defined in the ordinance, use the

common dictionary definition, the plain meaning. Implement the intent of the ordinance – if there is a purpose section of the ordinance, does this decision further that purpose? You may rely on documented evidence of intent – purpose section of the ordinance, memos or statements documented in minutes at the time the ordinance was passed. Give effect to all provisions – do not make an interpretation that renders part of an ordinance meaningless or surplus. Do not render an interpretation that creates a conflict between ordinance provisions.

### Standards, Determinations of Fact and Conclusions

When you are acting in a Quasi-Judicial capacity, it is even more important to formally document your decision and the basis for the decision –

Findings in Record – whatever the decision reached by the Council, findings should be included in the minutes and record. If the Council is adopting the staff report and there is not a reference in the ordinance or resolution to that effect, affirmatively state that the Council adopts the staff report as the basis for its findings of fact and determination. If there are exceptions or additions to what was presented in the staff report, you may adopt the staff report noting also that any additions or corrections to the staff report.

A motion may be made that the Council adopt the findings and recommendation of the staff report as the findings and determination of the Council. Additions or amendments to the staff report findings or recommendation may then be made by amendments. For example, I move to amend the motion to add a condition that .....; or I move to amend the motion to add a finding that .....

Alternatively if the additions or corrections are immediately apparent they may be incorporated into the original motion. For example I move to adopt the staff report as the findings and determination of the Council with the following correction; or I move to adopt the staff report as the findings and determination of the Council and in addition add the following condition.

## Judicial Appeals

Generally, courts will uphold a Council's determination if you have followed the proper procedures and the determination appears "reasonable".

### Standards

1. was the matter decided within the body's jurisdiction?
2. did the commission follow the proper procedures (open meetings law, public notice, hearing procedure, decision on record)?
3. did the commission apply the proper standard in making the decision?
4. could a reasonable person have reached the conclusion reached by the commission on the record before them?
5. do the facts in the record support the decision?
6. Was the action arbitrary, oppressive or unreasonable?

The court may affirm, reverse or modify the decision in whole or in part

An overturned decision may be sent back to the Council with directions to decide the matter consistent with the court's findings.



**Plan Commission  
2025**



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## **PURPOSE AND INTERRELATIONSHIP OF COMMUNITY DEVELOPMENT, BOARDS AND COMMISSIONS AND OTHER PLANNING RESOURCES**

Within the City's ordinances, the Community Development Department staff is assigned to assist the Plan Commission.

**Plan Commission:** primarily an advisory body, that can make final decisions limited by the terms of the zoning ordinance as adopted by the Council, and according to the terms of state law. Plan Commission conducts detailed analysis of land use and zoning issues through hearings and offers recommendations to the Common Council based upon the terms of the comprehensive plan and zoning ordinance.

**Community Development/Planners:** Professionals with expertise in land use issues. Assist applicants and citizens in comparing the goals of the comprehensive plan along with the rules of the zoning ordinance with proposed developments and/or improvements. Provide Common Council, Plan Commission, Board of Appeals and other boards and commissions with interpretations, recommendations, and professional advice regarding the advisability of proposals brought before the City decision makers.

**Zoning Administrator:** Professional with expertise relating to the City's zoning code and zoning issues in general. Responsible for the day to day administration of the Zoning Code. Provides interpretations, recommendations, and professional advice regarding issues brought before the Council, Board of Appeals and other boards or commissions.

**City Council:** a legislative body, it is the final decision maker on most land use and zoning issues and is the body that makes policy for the City of Oshkosh through the adoption of resolutions and ordinances within the authority granted to municipalities through the Wisconsin Legislature and Home Rule provisions of the Wisconsin State Constitution and Statutes. The Council approves the land use policies of the City through its adoption of a comprehensive plan. It approves the land use and zoning rules of the City through its adoption of the zoning ordinance and other municipal codes.

**Board of Appeals:** a decision making body. The Board of Appeals may make final decisions limited by the terms of the zoning ordinance as adopted by the Council, and according to the terms of state law. The Board interprets the zoning ordinance through its review of requests to vary specific requirements, and through its review of appeals of administrative decisions of the Community Development Department. The Board of Appeals acts like a court – The Board applies the law to a particular set of facts just like a

court – quasi-judicial decisions; policy development & adoption are legislative functions reserved for the Plan Commission and the Common Council.

**Landmarks Commission:** primarily an advisory body, the Landmarks Commission makes recommendations to Council on historic sites, structures and districts; supports and promotes City's historical, architectural and cultural heritage; provide information on City's heritage and on historic resources; takes action on applications for alterations or demolition of historic structures but may only approve, approve with conditions or delay alterations or demolition – but may not deny applications.

**Public Museum, Arts and Culture Board:** With regard to plan commission matters this Board provides assistance for public art projects that utilize public funding or are located on city property; promotes public art in the community; advises the City Manager, Council and other boards or commissions on matters pertaining to public art and art in public places; advises the Common Council on gifts or donations of public art pursuant to the City Gifts and Donations Policy; and may receive and expend funds for the benefit of protecting, supporting or promoting public art.

**BID Board:** The Downtown Oshkosh Business Improvement District is a geographic district within the downtown area that has been created and assesses properties within the district to contribute to programs and activities aimed at the promotion, management, maintenance and development of the district. The District develops a plan each year for programs and activities to be conducted in the next year.

**Fair Housing Commission:** a quasi-judicial body that receives complaints under the City's Antidiscrimination in Housing ordinance; reviews staff investigations of complaints; and holds hearings on complaints and may make referrals for appropriate enforcement actions.

**Sustainability Advisory Board:** an advisory board for the purpose of advising the City Manager and Council on sustainability issues affecting municipal operations and the community at large. The Board promotes sustainability within the community; advises on existing and proposed legislation pertaining to sustainability; facilitates citizen and agency input pertaining to sustainability; and collaborates on the development and implementation of a Community Sustainability Plan.

**City of Oshkosh Redevelopment Authority** is an independent entity created by the City pursuant to Wisconsin Statutes for the purpose of carrying out blight elimination and urban renewal programs and projects. The Oshkosh Redevelopment Authority has as its primary emphasis and focus the redevelopment and revitalization of central city areas in the community.

Advisory Parks Board: an advisory board assigned to the Parks Department to advise the City Manager, City Council, Plan Commission, and parks administration regarding parks, recreation, open spaces, forestry, municipal cemeteries, and waterways. The Board participates in the development of Comprehensive Plans for individual parks and the Parks Capital Improvement Program.

Transportation Committee: an advisory board assigned to the Department of Transportation to advise and assist city staff and the Council regarding issues pertaining to traffic flow, speed limits, bicycle and pedestrian matters, and other traffic matters. The Traffic Review Board also advises and assists city staff and the Council regarding issues pertaining to on-street parking, and municipal parking lots (except those serving city facilities and parks).

Other Committees and entities: Specific issues also may occasionally involve the input and recommendations of other City boards or commissions.

#### Entities independent of the City of Oshkosh -

Regional Planning Commission: a strictly advisory body created by the State of Wisconsin §66.0309 Wis. Stats.; have the authority to conduct studies, collect and analyze data, make and adopt plans for the physical and economic development of the region; may provide advisory services to local governments including comprehensive planning, economic development planning, preparation or review of proposed land use regulations, grant writing, data collection and mapping services.

GO-HNI: Greater Oshkosh Healthy Neighborhoods Inc. (GO-HNI) is a non-profit corporation which is independent of the City of Oshkosh but which works with the City to promote neighborhood development services including community building and engagement, real estate development and asset management activities within Oshkosh.

GO-EDC: Greater Oshkosh EDC is a non-profit corporation created separately and working independently of the City of Oshkosh which exists to preserve the health of existing companies, foster a positive entrepreneurial environment, connect companies to workforce and talent development resources, enhance the business climate and promote the quality of life in the greater Oshkosh area.

Neighborhood Associations: A neighborhood association is a loosely formed group of residents and property owners within a geographically defined area within the City of Oshkosh. While the City of Oshkosh recognizes neighborhood associations, they are not created by and are independent of the City of Oshkosh.

## ORDINANCES

### ARTICLE VI. CITIZENS ADVISORY BOARDS AND COMMISSIONS

#### *DIVISION 1. GENERAL PROVISIONS*

#### **SECTION 2-36 RULES, MINUTES, NOTICE AND COMPENSATION**

Unless specifically modified elsewhere in this Code, the following provisions shall apply to all boards or commissions of the City of Oshkosh:

- (A) Notwithstanding anything to the contrary contained within this Municipal Code, terms for citizen members of all advisory boards, commissions and committees, whether enumerated in this Chapter or elsewhere in this Code, shall begin on June 1 and shall terminate on May 31 of the respective year; except that the terms for Board of Review shall begin on May 1 and shall terminate on April 30 of the respective year. Terms for Council members shall begin upon appointment and shall continue until new appointments are made, but shall terminate automatically if the person no longer serves on the Council. Terms for individuals appointed by virtue of the person's position or title shall begin upon the person taking the position or title and shall automatically terminate for that individual when that person no longer holds the position or title.
- (B) Except for boards and commissions specifying a particular membership by the person's position or title and members of the Library Board and BID Board, all persons appointed to or serving as a member of a standing board or commission of the City shall be residents of the City of Oshkosh. A vacancy is created whenever a member who is required under this section to be a resident of the City of Oshkosh ceases to be a resident of the City of Oshkosh.
- (C) Individuals shall serve on no more than two (2) boards or commissions for the City of Oshkosh.
- (D) In order to provide continuity, appointments to boards and commissions shall be made upon a staggered basis so that a proportionate share of each board or commission is initially appointed for staggered terms and thereafter appointed for full terms.
- (E) Boards and commissions shall hold regular meetings at a regular time and place as fixed by the board or commission. Special meetings may be called by the

chairperson upon written notice to the members. Meetings shall be duly and properly noticed and open to the public as provided by law.

- (F) Boards and commissions shall generally be governed by such rules of order as the Council may adopt from time to time as may be necessary for the efficient conduct of business. Boards and commissions may, in addition to those general rules, adopt specific rules for their governance and procedures as may be appropriate for the conduct of business before the individual board or commission. The most recent version of Roberts Rules of Order may be used for guidance if a matter is not addressed within the adopted Rules of Order.
- (G) Each board and commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the secretary of the board or commission or with the City Clerk and shall be public records. Minutes of the meetings shall be forwarded to the City Council.
- (H) Each board and commission shall elect from its membership a chairperson who shall preside at all meetings and a vice chairperson who shall exercise the powers of chairperson in the absence or disability of the chairperson. Each shall serve one-year terms, until a successor is elected and qualified.
- (I) No compensation shall be paid to any board or commission member for service as such, but members may be reimbursed for actual and necessary expenses incurred in performing related duties outside the City if so authorized by the board or commission and approved by the City Manager.
- (J) A majority of the membership shall constitute a quorum. A lesser number may adjourn. A majority vote of those members present and voting shall be necessary to adopt any motion. In the event that a board or commission member declines to vote, except as provided below, the secretary shall record the vote as “present” and that member shall not be counted toward the number present and shall not have their vote counted as either “aye” or “no” in relation to the matter. In the event that a board or commission member declines to vote and by declining to vote, the board or commission member’s declining to vote shall reduce the number present at the meeting to below a quorum of the board or commission, city staff shall consider the wishes of the applicant, any statutory or ordinance time limits and any other considerations or limitations with respect to the particular matter in determining whether to reschedule the matter before the board or commission for

further consideration, forward the matter to Council or take other action as may be appropriate with regard to the matter.

- (K) The Mayor, subject to Council approval, or the chairperson, subject to board or commission approval, may establish subcommittees for specific purposes as determined by the Council, or the board or commission. These general provisions shall apply to all subcommittees.
- (L) The Mayor, subject to Council approval, may appoint up to two (2) alternates to any board or commission except the Police and Fire Commission, the Library Board or as otherwise may be prohibited by law. Without regard to the length of term for other members of the Board or Commission, the term for each alternate member shall be two (2) years. Alternates shall be authorized to act in the place of and shall have all authority and responsibility to act as a member of the board or commission in the absence or upon the recusal of any regular member of the board or commission.
- (M) The Mayor, subject to Council approval, may appoint up to two youth members, defined as persons between the ages of 15-19, to any board or commission except the Police and Fire Commission, the Library Board or as otherwise may be prohibited by law. Without regard to the length of term for other members of the board or commission, the term for each youth member shall be one (1) year, or such other term no longer than one (1) year, as may be specified within the appointing Resolution (ex. an appointment for a semester or school year). Youth members shall not be entitled to vote on matters but may participate in the discussion of legislative matters before the board or commission in the same manner as other board or commission members, but may not participate as a member of the board or commission in quasi-judicial matters that may come before the board or commission.

## **SECTION 2-52      PLAN COMMISSION**

(A)    Membership and Terms

The City Plan Commission shall consist of one (1) Council person and eight (8) citizens so that the Commission shall consist of nine (9) members. Citizen members shall be persons of recognized experience and qualifications. The term of the eight (8) citizen members shall be for a three (3) year term. The council member shall serve for a term of one (1) year.

(B)    Functions and Duties

The functions and duties of the Commission shall be as prescribed in Chapter 30 of this Code and in Section 62.23 of the Wisconsin Statutes. [Statutory Reference §62.23 Wis. Stats.]

### **Section 30-342: Plan Commission**

- (A) The Plan Commission, together with its other statutory duties, shall make recommendations relating to the planning and development of the City to the Common Council, other public officials, and other interested organizations and citizens. The Plan Commission is established in Chapter 2, Article VI, of the City of Oshkosh Municipal Code.
- (B) Except where they are the final step in the review process as established by this Chapter, the functions of the Plan Commission are recommendatory to the Common Council pursuant to guidelines set forth in this Chapter as to various matters, and, always being mindful of the intent and purposes of this Chapter.
- (C) See Figure 30-360 for a summary of the Plan Commission's role in administering this Chapter.



## STATUTES

§62.23 Wis Stats.

(3) Master (Comprehensive) Plan

(4) Other Plans and Development

(5) Matters referred to city plan commission. The council, or other public body or officer of the city having final authority thereon, shall refer to the city plan commission, for its consideration and report before final action is taken by the council, public body or officer, the following matters:

- the location and architectural design of any public building;
- the location of any statue or other memorial;
- the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds;
- the location, extension, abandonment or authorization for any public utility whether publicly or privately owned;
- all plats of lands in the city or within the territory over which the city is given platting jurisdiction by ch. [236](#);
- the location, character and extent or acquisition, leasing or sale of lands for public or semipublic housing, slum clearance, relief of congestion, or vacation camps for children;
- the amendment or repeal of any ordinance adopted pursuant to section 62.23.

(6) Official Map and Amendments

(7) Zoning Ordinance and Amendments

(7)(de) Conditional Use Permits

(7a) Extraterritorial Zoning

66.0217 et seq. Annexations

66.0227 Detachments

66.0301 Intergovernmental Agreements (Boundary Agreements)

66.1001 Comprehensive Planning

66.1105 Tax Increment Financing (TIF) Law

66.1109 Business Improvement Districts (BID) Creation/Change of Boundaries

66.1110 Neighborhood Improvement Districts Creation/Change of Boundaries

## ROLE AND RESPONSIBILITIES

The Plan Commission performs a variety of functions related to community planning and land use development. The Plan Commission Handbook developed by the Center for Land Use Education of the UW Extension (referenced in the Additional Sources at the end of this Handbook) describes five basic roles for a plan commission: Community Planning; Plan Implementation; Public Participation and Education; Development Review; and Referrals and Advisory Recommendations. Using that basic framework, the Plan Commission for the City of Oshkosh performs the following functions in relation to these roles:

### Community Planning –

- The Plan Commission adopts, and may adopt amendments to, add to, or extend, a Comprehensive Plan for the development of the City. §62.23(2) Wis. Stats.
- The Plan Commission may also be asked to participate in the development of or adopt other community plans, reports or recommendations.
- The Plan Commission reviews proposed new or amended zoning, subdivision ordinances and official mapping for consistency with the Comprehensive Plan.
- The Plan Commission reviews the City's Annual Capital Improvements Budget for consistency with the Comprehensive Plan.

### Public Participation –

- Under Wisconsin's Open Meeting Law, all meetings of the Plan Commission must be properly noticed and open to the public.
- Public Hearings on certain plans or ordinances may be held before the Plan Commission.
- Adoption of the Comprehensive Plan and amendments thereto require a plan for and the opportunity for public participation. The Plan Commission may approve of the public participation plan and conduct certain public hearings related to the Comprehensive Plan or other community plans.

### Plan Implementation –

- The Plan Commission recommends ordinances to implement the plan including zoning ordinances, approval of subdivision plats, official mapping, planned development reviews, etc...
- The Plan Commission reviews the annual Capital Improvements Program for consistency with the Comprehensive Plan.

#### Development Review –

- The Plan Commission reviews specific land use and development proposals, including:
  - Zoning and Rezoning requests
  - Subdivision Plats
  - Conditional Uses
  - Planned Developments
  - Architectural Design Variances

#### Referrals and Advisory Recommendations –

- The following must be referred to the Plan Commission for review and recommendation prior to consideration by the Council:
  - Location and design of public buildings
  - Location of statues and memorials
  - Land for public purposes such as streets, parks, etc...
  - Land for public housing and housing projects
  - Public utilities
  - Group homes
  - Pedestrian malls
  - Plats
  - Adoption or amendment of subdivision or land division ordinances
  - Amendment or repeal of any ordinance adopted under §62.23 Wis. Stats.

Legislative and Quasi-Judicial Roles. The Plan Commission operates both as a legislative and quasi-judicial body. It is important to distinguish between these roles. Training specific to this topic is contained within the City's Board and Commissions Manual.

## **GUIDANCE FOR DECISION-MAKING**

## Annexation

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed annexations before the Council takes final action. This is a legislative determination.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory References:* §66.0217(8)(a) direct annexation - requires referral to Plan Commission prior to adoption of an ordinance containing a temporary zoning classification. §66.0223 annexation of city property.

Review of zoning classification: see Zoning Amendment for applicable standards

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to Annexations may include:

- ❑ The proposed annexation is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- ❑ The proposed annexation will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- ❑ The proposed annexation will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

## Amendments to the Comprehensive Plan

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed amendments to the Comprehensive Plan before the Council takes final action. This is a legislative determination.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §66.1001 Wis. Stats.

Majority vote of entire commission (5 votes) required for adoption or recommendation of amendment §66.1001(4)(b) Wis. Stats.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to Comprehensive Plan Amendments may include:

- ☐ The amendment will correct an error in the existing Comprehensive Plan
- ☐ The proposed amendment is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- ☐ The proposed amendment will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- ☐ The proposed amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

## Zoning Ordinance Text Amendment

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed zoning ordinance amendments before the Council takes final action. These are ordinance text amendments and therefore broad in application. They are a legislative determination and require a public hearing before the Plan Commission.

### *General Procedures – Public Hearing on Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public hearing / enforce the rules of procedure

Close the public hearing

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(7) Wis. Stats.

*Ordinance Reference:* 30-380

30-380 (F)(1) Within 60 days of the public hearing, the Plan Commission shall make its recommendations regarding the application. Said recommendation may include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of Subsection (D)(2) above (*see requirements listed below*), and whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment.

Requirements -- whether the proposed amendment:

- Advances the purposes of this Ordinance as outlined in Section 30-03 .
  - Section 30-03: Purpose and Intent
    - protecting the health, safety, morals, comfort, convenience, and general welfare of the public;
    - control and lessen congestion in the streets;
    - to secure safety from fire, panic, and other dangers;
    - to promote adequate light and air;
    - to protect groundwater resources;

- to prevent the overcrowding of land;
  - to avoid undue concentration of population;
  - to preserve, protect, and promote property values;
  - to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities; and to preserve burial sites as defined in Sec. 157.70(1)(b), Wisconsin Statutes.
- Advances the purposes of the general Article in which the amendment is proposed to be located.
  - Advances the purposes of the specific Section in which the amendment is proposed to be located.
  - Is in harmony with the Comprehensive Plan.
  - Maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
  - Addresses any of the following factors that may not be addressed in the current zoning text:
    - A change in the land market, or other factors which require a new form of development, a new type of land use, or a new procedure to meet said change(s).
    - New methods of development or types of infrastructure.
    - Changing governmental finances to meet the needs of the government in terms of providing and affording public services.
    - Any other factor deemed appropriate by the City.



## Zoning Map Amendment (Rezoning) – Area wide

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed zoning map amendments (rezoning) before the Council takes final action. Because these are overall or area wide requests, they are legislative determinations. Zoning Map Amendments require a public hearing before the Plan Commission.

### *General Procedures – Public Hearing on Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public hearing / enforce the rules of procedure

Close the public hearing

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(7) Wis. Stats.

*Ordinance Reference:* 30-381

30-381 (G)(1) Within 60 days of the public hearing, the Plan Commission shall make its recommendations regarding the application. Said recommendation may include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of Subsection (D)(2) above (*See Requirements below*), and whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment.

Requirements -- whether the proposed amendment:

- Advances the purposes of this Ordinance as outlined in Section 30-03 and the applicable rules of Wisconsin Department of Administration and the Federal Emergency Management Agency.
  - Section 30-03: Purpose and Intent
    - protecting the health, safety, morals, comfort, convenience, and general welfare of the public;
    - control and lessen congestion in the streets;

- to secure safety from fire, panic, and other dangers;
  - to promote adequate light and air;
  - to protect groundwater resources;
  - to prevent the overcrowding of land;
  - to avoid undue concentration of population;
  - to preserve, protect, and promote property values;
  - to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities; and to preserve burial sites as defined in Sec. 157.70(1)(b), Wisconsin Statutes
- Is in harmony with the Comprehensive Plan.
  - Maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
  - Addresses any of the following factors that are not properly addressed on the current Official Zoning Map:
    - The designations of the Official Zoning Map are not in conformance with the Comprehensive Plan.
    - A mapping mistake was made, including the omission on the Official Zoning Map of an approved zoning map amendment.
    - Factors have changed (such as new data, infrastructure, market conditions, development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
    - Growth patterns or rates have changed, creating the need for an amendment to the Official Zoning Map.
  - whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment
  - The amendment will not result in spot zoning inconsistent with surrounding properties

## **Zoning Map Amendment (Rezoning Request) – individual properties or a limited identifiable group of properties**

**Role:** The Plan Commission is responsible for reviewing and providing a recommendation on proposed zoning map amendments (rezoning requests) before the Council takes final action. Because individual property rights are specifically at issue, this is a quasi-judicial determination requiring Due Process and a Public Hearing.

### *General Procedures -- Public Hearing on Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public hearing / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public hearing

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(7) Wis. Stats.

*Ordinance Reference:* 30-381

30-381 (G)(1) Within 60 days of the public hearing, the Plan Commission shall make its recommendations regarding the application. Said recommendation may include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of Subsection (D)(2) above (*See Requirements below*), and whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment.

Requirements -- whether the proposed amendment:

- Advances the purposes of this Ordinance as outlined in Section 30-03 and the applicable rules of Wisconsin Department of Administration and the Federal Emergency Management Agency.
  - **Section 30-03: Purpose and Intent**
    - protecting the health, safety, morals, comfort, convenience, and general welfare of the public;
    - control and lessen congestion in the streets;
    - to secure safety from fire, panic, and other dangers;
    - to promote adequate light and air;
    - to protect groundwater resources;
    - to prevent the overcrowding of land;
    - to avoid undue concentration of population;
    - to preserve, protect, and promote property values;
    - to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities; and to preserve burial sites as defined in Sec. 157.70(1)(b), Wisconsin Statutes
- Is in harmony with the Comprehensive Plan.
- Maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
- Addresses any of the following factors that are not properly addressed on the current Official Zoning Map:
  - The designations of the Official Zoning Map are not in conformance with the Comprehensive Plan.
  - A mapping mistake was made, including the omission on the Official Zoning Map of an approved zoning map amendment.
  - Factors have changed (such as new data, infrastructure, market conditions, development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
  - Growth patterns or rates have changed, creating the need for an amendment to the Official Zoning Map.
- whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment
- The amendment will not result in spot zoning inconsistent with surrounding properties

## Official Map Amendment

**Role:** The Plan Commission is responsible for reviewing and providing a recommendation on proposed amendments to the Official Map before the Council takes final action. Because individual property rights are specifically at issue, it is recommended that changes to the Official Map, whether done on an area wide basis or for specific properties, provide a Due Process Hearing. By Statute a Public Hearing is required.

### *General Procedures -- Public Hearing on Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public hearing / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public hearing

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(6) Wis. Stats.

*Ordinance Reference:* 30-440

The Statutes and Ordinances allow the Commission to consider all relevant information. Certain criteria and considerations related to zoning amendments and subdivisions may be equally applicable to Official Map amendments including:

In general –

- ☐ The amendment will correct an error in the existing map
- ☐ The proposed amendment is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- ☐ The proposed amendment will not be detrimental to property in the immediate vicinity or to the community as a whole

- The proposed amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

From Section 30-381 related to Zoning Amendments –

- whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment.
- Whether the proposed amendment will:
  - protect the health, safety, morals, comfort, convenience, and general welfare of the public;
  - control and lessen congestion in the streets;
  - secure safety from fire, panic, and other dangers;
  - promote adequate light and air;
  - to protect groundwater resources;
  - prevent the overcrowding of land;
  - avoid undue concentration of population;
  - preserve, protect, and promote property values;
  - facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities; and to preserve burial sites as defined in Sec. 157.70(1)(b), Wisconsin Statutes
- Is in harmony with the Comprehensive Plan.
- Maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.

From Section 30-442(B) Purpose related to Subdivisions –

- to promote the public health, safety, and general welfare of the community;
- to lessen congestion in the streets and highways;
- to further the orderly layout and appropriate use of land;
- to secure safety from fire, panic and other dangers;
- to provide adequate light and air; to prevent the overcrowding of land;
- to avoid undue concentration of population, to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements;
- to facilitate the further division of larger tracts into smaller parcels of land;
- to ensure adequate legal description and proper survey monumentation of subdivided land;

- to facilitate enforcement of community development standards as set forth in the Comprehensive Plan, Zoning Ordinance, Building Code, and Official Map of the City of Oshkosh.

From Section 30-442(M)(3) Land Suitability – Subdivision Policies related to Subdivisions –

- To preserve and enhance existing cities and villages, and encourage compact balanced growth shared by, and in association with, all the region's cities and villages.
- To encourage the development of balanced compact communities in Winnebago County with appropriate commercial, public services, industrial, employment, residential, and open space land uses, meeting the needs of present and future residents of those communities.
- To direct new growth to those areas capable of providing a full range of urban services and facilities.
- To prevent scattered and noncontiguous development without discouraging new and desirable development.
- To ensure that new development will not be detrimental to the physical, social, and economic well-being of residents of the City or the County.
- To ensure that new development will be organized and timed so as to permit urban services and facilities to be provided as economically and efficiently as possible.
- To discourage new developments in those areas that are premature in terms of planning and timing for the provision of adequate public services and facilities.
- To preserve high quality agricultural lands for that purpose.

## Extraterritorial Zoning

Role: The Joint Extraterritorial Zoning Committee is composed of a subset of members of the Plan Commission and the affected town. The Extraterritorial Zoning Committee is responsible for reviewing and providing a recommendation on proposed zoning map amendments before the Council takes final action. Note: Extraterritorial Subdivisions are governed under Article XIII Subdivisions and follow the Subdivision process.

Because most often these cases involve individual property rights, it is recommended to follow quasi-judicial processes and provide Due Process.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(7a)

*Ordinance Reference:* 30-701 to 30-702

The Statutes and Ordinances allow the Commission to consider all relevant information. Certain criteria and considerations related to zoning map amendments may be equally applicable to Extraterritorial amendments including:

- Advances the purposes of this Ordinance as outlined in Section 30-03 and the applicable rules of Wisconsin Department of Administration and the Federal Emergency Management Agency.



- **Section 30-03: Purpose and Intent**
  - protecting the health, safety, morals, comfort, convenience, and general welfare of the public;
  - control and lessen congestion in the streets;
  - to secure safety from fire, panic, and other dangers;
  - to promote adequate light and air;
  - to protect groundwater resources;
  - to prevent the overcrowding of land;
  - to avoid undue concentration of population;
  - to preserve, protect, and promote property values;
  - to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities; and to preserve burial sites as defined in Sec. 157.70(1)(b), Wisconsin Statutes
- Is in harmony with the Comprehensive Plan.
- Maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
- Addresses any of the following factors that are not properly addressed on the current Official Zoning Map:
  - The designations of the Official Zoning Map are not in conformance with the Comprehensive Plan.
  - A mapping mistake was made, including the omission on the Official Zoning Map of an approved zoning map amendment.
  - Factors have changed (such as new data, infrastructure, market conditions, development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
  - Growth patterns or rates have changed, creating the need for an amendment to the Official Zoning Map.
- whether the public benefits outweigh any and all potential adverse impacts of the proposed amendment
- The amendment will not result in spot zoning inconsistent with surrounding properties

## Planned Developments

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed Planned Developments before the Council takes final action. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

### *Ordinance Reference: Section 30-387*

Three steps ---

Concept Plan (optional)

General Development Plan – Rezoning Application, if applicable (for zoning requirements see Zoning Map Amendments)

Specific Implementation Plan

Criteria: 30-387(C)(6) The Plan Commission shall make findings with respect to the following criteria:

- ☐ The proposed Planned Development project is consistent with the overall purpose and intent of this Chapter.
- ☐ The proposed Planned Development project is consistent with the City's Comprehensive Plan and other area plans. (It is the responsibility of the City to determine such consistency.)

- The proposed Planned Development project would maintain the desired relationships between land uses, land use densities and intensities, and land use impacts in the environs of the subject site.
- Adequate public infrastructure is or will be available to accommodate the range of uses being proposed for the Planned Development project, including but not limited to public sewer and water and public roads.
- The proposed Planned Development project will incorporate appropriate and adequate buffers and transitions between areas of difference land uses and development densities/intensities.
- The proposed Planned Development project design does not detract from areas of natural beauty surrounding the site.
- The proposed architecture and character of the proposed Planned Development project is compatible with adjacent/nearby development.
- The proposed Planned Development project will positively contribute to and not detract from the physical appearance and functional arrangement of development in the area.
- The proposed Planned Development project will produce significant benefits in terms of environmental design and significant alternative approaches to addressing development performance that relate to and more than compensate for any requested exceptions/base standard modifications variation of any standard or regulation of this Chapter.
- For Planned Development projects that are proposed to be developed in phases, the applicant can provide a timeline for development and can demonstrate that the project would be successful even if all phases were not or could not be completed.

## Conditional Use Permits

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed Conditional Use Permits before the Council takes final action. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process. Wisconsin Statutes require a Public Hearing.

### *General Procedures -- Public Hearing on Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public hearing / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public hearing

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(7)(de)(2) conditional uses.

If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit.

Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence. The requirements and conditions must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal.

The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.

The city's decision to approve or deny the permit must be supported by substantial evidence.

***Substantial evidence means*** facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

*Ordinance Reference:* 30-382

30-382(H)(2) .... The Plan Commission may recommend the conditional use with modifications and/or conditions, or may recommend denial of the proposed conditional use. Said action shall be followed by a written report which may include a formal finding of facts developed and approved by the Plan Commission concerning the request. Said report shall be forwarded to the Common Council for its review and action on the proposed conditional use.

30-382(H)(3) If the Plan Commission wishes to recommend significant changes in the proposed conditional use, then the procedure set forth in Section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to Plan Commission action.

Criteria: Section 30-382(F)(3)

- ☐ A proposed conditional use may be denied unless the applicant can demonstrate to the satisfaction of the City that the proposed conditional use will not create undesirable impacts on nearby properties, the environment, or the community as a whole.

whether the proposed conditional use:

- ☐ Is in harmony with the Comprehensive Plan.
- ☐ Would result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare.
- ☐ Maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
- ☐ The conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public or private agencies serving the subject property.
- ☐ The potential public benefits outweigh any potential adverse impacts of the proposed conditional use, after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.

### Section 30-382(S) Limited Conditional Uses

A limited conditional use is any development, activity or operation for which a conditional use permit has been approved that is limited to a specific operator or property owner, or to a specific date or event upon which the conditional use permit either expires or is required to be reviewed and reapproved. The Plan Commission may require any proposed conditional use request to be a limited conditional use. The Plan Commission shall specify which of the following characteristics are present that create the need for the limited conditional use:

- i. A particular aspect of the specific land use.
- ii. A particular aspect of the proposed operation (including, but not limited to, operating hours).
- iii. A particular aspect of the proposed location.
- iv. A particular aspect of the proposed site design.
- v. A particular aspect of the adjacent property or of the surrounding environs.
- vi. Any other reason(s) the Plan Commission deems specially relevant and material.

## Revocation of Conditional Use Permit

Role: The Plan Commission is responsible for hearing proposed Revocations of Conditional Use Permits and making a final determination on whether to revoke a Conditional Use Permit. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Public Hearing on Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public hearing / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public hearing

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Direct Staff to formally notify the applicant of the Commission's Decision

*Statutory Reference:* §62.23(7)(de)(2) conditional uses.

*Ordinance Reference:* 30-382

30-382(L) Revocation of an Approved Conditional Use.

Revocations are initiated by the City reviewing the previously submitted application, conditional use permit and current condition of the property and serving the property owner with a notice to consider revocation. The notice must provide written findings of fact related to the criteria from section 30-382(F)(3) listed above.

The Plan Commission may revoke a Conditional Use Permit upon vote of a majority of the Plan Commission (**Note: the ordinance requires a majority of the membership of the Commission or 5 members – not a majority of those present and voting.**)

Criteria: A proposed conditional use may be revoked for failing to comply with the conditions of issuance.

## Architectural Reviews / Public Buildings

Role: The Plan Commission is responsible for reviewing the location and architectural design of proposed public buildings. Similar to private building architectural review, the Plan Commission may look at materials, type of construction, bulk, scale, height and may consider materials or construction of comparable quality or design for granting variances from the strict application of the building design standards where they may be applicable in a particular location. This is a legislative determination.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings (with amendments as appropriate), second, discussion, vote

*Statutory Reference: 62.23(5)*

Criteria: The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to location may include:

- The proposed location is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan
- The proposed location will not be detrimental to property in the immediate vicinity or to the community as a whole
- The proposed location will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

Some Considerations related to Architectural Review may include:

- Whether the proposed architectural design complies with zoning requirements within the area of the proposed building or structure.
- Minimizing adverse impacts on adjacent properties and neighborhoods resulting from architectural and building construction practices that may detract from the character and appearance of the area as a whole, and to ensuring compatible design between existing and new buildings.



## **Architectural Reviews / Building Design Standards**

Role: The Plan Commission is responsible for hearing appeals from determinations of the Director of Community Development regarding substitute building materials or construction of comparable quality or design and for granting variances from the strict application of the building design standards. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings (with amendments as appropriate), second, discussion, vote

*Ordinance Reference:* Section 30-240(B)(4) the Plan Commission is authorized to grant variances from the strict application of the building design standards when the Commission finds that the intent of the standards has been incorrectly interpreted, that the standards do not apply or that enforcement of the standards causes an unnecessary hardship.

The Plan Commission may hear appeals from the decision of the Director of Community Development regarding substitution of materials or construction of comparable quality or design when it is infeasible to meet the design standards and the granting of the exception is in keeping with the purposes of the Design Standards section.

Criteria: When granting variances under this section, the Plan Commission shall follow the same procedure as the Board of Zoning Appeals for granting variances and use the same criteria for granting of variances. Section 30-240(B)(4)(c) adopting Section 30-411.

- The variance will not be contrary to the public interest.
- Substantial justice will be done by granting the variance.
- The variance is needed so that the spirit of the ordinance is observed.
  - *“Maintain the basic architectural quality of residences within the community, to minimize adverse impacts on adjacent properties and neighborhoods resulting from architectural and building construction practices that may detract from the character and appearance of the neighborhood as a whole, and to ensure compatible design between existing and new homes”.*
- Due to special conditions, a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship.
- The variance will not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

## Special Area Design Reviews

**Role:** The Plan Commission is responsible for hearing appeals from determinations of the Director of Community Development and for granting variances from the strict application of the Design Review Ordinance for certain specially designated areas including the area zoned as Central City Mixed Use (CMU) and Riverfront Overlay District (RF-O). Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

This process may involve three general types of review:

**Project Review:** Applications which involve modification to the physical configuration of a property (such as the erection of a new building or the demolition of an existing building) are subject to Project Review by the Director of Community Development, or designee, the Plan Commission and Common Council.

**Design Alteration Review:** Applications which involve a change only in the exterior appearance of a nonresidential or multi-family property (such as painting, roofing, siding, architectural component substitution, fencing, paving, or signage), are considered Design Alteration Review and are subject to review and approval by the Director of Community Development, or designee.

**Renovation Review:** Applications which involve only a renovation of the exterior appearance of a property (such as repainting, re-roofing, residing or replacing with identical colors, finishes, and materials), as determined by the Director of Community Development, or designee, are considered a Renovation Review and may proceed with the project; no additional processes are required other than a building permit.

## *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission when required by ordinance (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council, when required by ordinance

*Ordinance References:* 30-240(B)(4); CMU 30-245(A); RF-O 30-245(B)

Section 30-240(B)(4) the Plan Commission is authorized to grant variances from the strict application of the building design standards when it is claimed that the intent of the standards has been incorrectly interpreted, that the standards do not apply or that enforcement of the standards causes an unnecessary hardship.

The Plan Commission may hear appeals from the decision of the Director of Community Development regarding substitution of materials or construction of comparable quality or design when it is infeasible to meet the design standards and the granting of the exception is in keeping with the purposes of the Design Standards section.

Criteria: When granting variances under this section, the Plan Commission shall follow the same procedure as the Board of Zoning Appeals for granting variances and use the same criteria for granting of variances. Section 30-240(B)(4)(c) adopting Section 30-411.

- ☐ The variance will not be contrary to the public interest.
- ☐ Substantial justice will be done by granting the variance.
- ☐ The variance is needed so that the spirit of the ordinance is observed.
  - ☐ *“Maintain the basic architectural quality of residences within the community, to minimize adverse impacts on adjacent properties and neighborhoods resulting from architectural and building construction practices that may detract from the character and appearance of the*

*neighborhood as a whole, and to ensure compatible design between existing and new homes”.*

- Due to special conditions, a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship.
- The variance will not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

## Land Acquisition

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed land acquisition before the Council takes final action. This is a quasi-judicial determination.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Call for any public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(5) Wis. Stats. Matters referred to Plan Commission.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to land acquisition may include:

- The proposed acquisition is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- The proposed acquisition will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- The proposed acquisition will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

## Land Disposition

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed land disposition before the Council takes final action. This is a legislative determination.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(5) Wis. Stats. Matters referred to Plan Commission.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to land dispositions may include:

- The proposed disposition is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- The proposed disposition of public land will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- The proposed disposition will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

## Street Dedication

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed street dedication before the Council takes final action. This is a quasi-judicial determination.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Call for any public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(5) Wis. Stats. Matters referred to Plan Commission.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to street dedications may include:

- The proposed dedication is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- The proposed dedication will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- The proposed dedication will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole



## Street Vacation

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed street vacations before the Council takes final action. This is a legislative determination.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §66.1003 Wis. Stats Wis. Stats.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to street vacations may include:

- The proposed street vacation is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- The proposed street vacation will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- The proposed street vacation will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

## Easements

Role: The Plan Commission is responsible for reviewing and providing a recommendation on proposed easements before the Council takes final action. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(5) Wisconsin Statutes – matters referred to Plan Commission.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations related to proposed easements may include:

- The proposed easement is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan or there has been a change in community characteristics or actions that justify a change
- The proposed easement will not be detrimental to or will enhance the use of property in the immediate vicinity or the community as a whole
- The proposed easement will not have a significant adverse impact on the ability to provide adequate public facilities or services or will improve public facilities and services for a portion of or the community as a whole

## Access Control Variances

Role: The Plan Commission is responsible for granting variances to the municipal code provisions for driveway standards and access. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Ordinance Reference:* Section 25-104.2

### Standards:

The Plan Commission is authorized to grant in writing, variances from the strict application of driveway conditions and criteria provided it is determined that the following conditions are present:

- (1) The exception or variance desired arises from peculiar physical conditions not ordinarily existing in similar districts in the city, or is due to the nature of the business or operation on the abutting property.
- (2) That the granting of the permit for the exception or variance will not adversely affect the rights of adjacent property owners or tenants.
- (3) That exception or variance desired is not against the public interest, particularly safety, convenience and general welfare.
- (4) That the strict application of the terms of this chapter will impose unnecessary hardship on the property owner or tenant.

## **Review and Recommend CIP**

Role: The Plan Commission is responsible to review and make a recommendation to the Common Council relative to whether the City's proposed Capital Improvements Program (CIP) is consistent with the City's Comprehensive Plan and other plans as applicable. This is a legislative action.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §62.23(4) the Plan Commission may recommend to the mayor or council, programs for public improvements and the financing thereof.

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations may include:

- Whether the proposed CIP is generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan

## **Area Plans and Studies**

Role: The Plan Commission is responsible to review and make a recommendation to the Common Council relative to certain Area Plans and Studies. This is a legislative action.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

### *Statutory Reference: §62.23(4)*

The Statutes and Ordinances allow the Commission to consider all relevant information. Some considerations may include:

- Whether the Plan or Study and its recommendations or conclusions are generally consistent with the vision, goals, objectives and policies contained in the Comprehensive Plan and any other applicable plans or directives.

## **Review and Recommend Tax Incremental Finance District (TIF) Plans**

**Role:** By statute, the Plan Commission must hold a public hearing to allow interested persons a reasonable opportunity to express their views on the proposed creation and boundaries of a tax incremental district and the proposed district plan. The Plan Commission must also designate the boundaries of the TIF District and adopt the Project Plan, both for submission to the Council and Joint Review Board for final action. This is a legislative action.

### *General Procedures – Legislative Matters*

Introduce the items by title

Accept staff report as part of the record and request staff to provide summary/technical questions to staff

Open public comment / enforce the rules of procedure

Close the public comment period

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* §66.1105(4)(e)

Criteria:

- ☐ Designate the boundaries
- ☐ Finding that the plan is feasible and in conformity with the City's Comprehensive Plan

Council will be required to make the following findings, which the Plan Commission may make recommendation on:

- ☐ Not less than 50 percent, by area, of the real property within the district is at least one of the following: a blighted area; in need of rehabilitation or conservation work, as defined in s. [66.1337 \(2m\) \(a\)](#); suitable for industrial sites within the meaning of s. [66.1101](#) and has been zoned for industrial use; or suitable for mixed-use development.
- ☐ The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district.

- The project costs relate directly to eliminating blight, directly serve to rehabilitate or conserve the area or directly serve to promote industrial or mixed-use development, consistent with the purpose for which the tax incremental district is created.
- the equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the city.
- If the district is declared to be an industrial district, confirms that any real property within the district that is found suitable for industrial sites and is zoned for industrial use will remain zoned for industrial use for the life of the tax incremental district.
- that the district is a blighted area district, a rehabilitation or conservation district, an industrial district, or a mixed-use district based on the identification and classification of the property included within the district (may be based on which classification is predominant with regard to the area).

## Plats / Subdivision Plats

**Role:** The Plan Commission is responsible for reviewing and providing a recommendation on proposed Land Divisions and Subdivision Plats before the Council takes final action. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public comment / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public comment period

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings and recommendation of the Commission (with amendments as appropriate), second, discussion, vote

Forward recommendation to Council

*Statutory Reference:* Chapter 236 Wis. Stats.

*Ordinance Reference:* Chapter 30, Article XIII. Subdivisions

**Criteria:**

Section 30-442(M) Land Suitability

- (1) No land shall be subdivided which is judged by the Plan Commission to be unsuitable for use by reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, or any other feature likely to be harmful to the health, safety, or welfare of future residents or land owners in the proposed subdivision or of the community.

The City Plan Commission, in applying the provisions of this Ordinance, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use, and afford the subdivider an opportunity to



present evidence regarding such unsuitability, if he so desires. Thereafter, the City Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

- (2) In the case of land divisions and platted subdivisions, lot sizes shall conform to the area and width requirements prescribed for the zoning district in which the property is located, provided that in commercial and industrial districts lotting shall be to widths and areas deemed by the City Plan Commission to be appropriate for the prescribed use.
- (3) Subdivision Policies. The City of Oshkosh subscribes to the policy that urbanizing land should desirably be located in a compact manner within an existing city or village where a basic range of urban services and facilities will be available. Subdivisions shall conform to the following policies:
  - a) To preserve and enhance existing cities and villages, and encourage compact balanced growth shared by, and in association with, all the region's cities and villages.
  - b) To encourage the development of balanced compact communities in Winnebago County with appropriate commercial, public services, industrial, employment, residential, and open space land uses, meeting the needs of present and future residents of those communities.
  - c) To direct new growth to those areas capable of providing a full range of urban services and facilities.
  - d) To prevent scattered and noncontiguous development without discouraging new and desirable development.
  - e) To ensure that new development will not be detrimental to the physical, social, and economic well-being of residents of the City or the County.
  - f) To ensure that new development will be organized and timed so as to permit urban services and facilities to be provided as economically and efficiently as possible.
  - g) To discourage new developments in those areas that are premature in terms of planning and timing for the provision of adequate public services and facilities.
  - h) To preserve high quality agricultural lands for that purpose.

## Subdivision Criteria

- a) A preliminary plat or final plat of any subdivision shall not be approved unless the City Plan Commission and Common Council determine that adequate public facilities and public services are available to support and service the area of the proposed subdivision.
- b) A preliminary plat of a land division shall not be approved unless the Plan Commission determines that adequate public facilities and public services are available to support and service the area of the proposed land division.
- c) In considering the questions of adequacy of public facilities and public services as set forth hereinabove, the Plan Commission and Common Council shall consider, but not be limited to:
  - (i) The nature, extent and size of the proposed subdivision and its impact in terms of the estimated increase in population expected to result; and
  - (ii) The present or projected state of development likely to result when said subdivision is developed in context with projected densities, as anticipated by adopted area Comprehensive Plans, and currently approved subdivisions in the surrounding area and the immediate vicinity of the proposed subdivision; and
  - (iii) The avoidance of expenditures of public funds necessitated by the proposed subdivision which are not in adopted capital or operating budgets.
- d) For subdivisions in the City of Oshkosh, the applicant shall furnish data as may be requested by the Director of Community Development, or designee, who will coordinate statements of adequacy for transportation, storm sewer and/or storm drainage facilities, sanitary sewer, water service, fire and police protection, parks, open space, recreation, and school facilities for the Plan Commission and Common Council.
- e) For subdivisions in the extraterritorial area, the applicant shall include with the application for subdivision approval a statement evaluating and demonstrating compliance with the provisions of this Section to be reviewed by City Departments and forwarding, with appropriate comments, to the Plan Commission and Common Council.
- f) Public facilities and public services may be determined adequate for a

proposed subdivision when the following conditions are found to exist:

- (i) The proposed subdivision shall be deemed adequately accessible via roads and public transportation facilities if any of the following conditions are present:
  - (aa) Existing roads are adequate to accommodate the traffic that would be generated by the subject subdivision in addition to existing traffic, and are publicly maintained all weather roads; or
  - (bb) Such additional roads or road improvements necessary in combination with existing roads to accommodate the additional traffic that would be generated by the subject subdivision are budgeted in the current adopted budget for construction with public or private financing.
- (ii) The proposed subdivision shall be determined to have adequate storm sewer and/or storm drainage facilities when the City Engineer certifies to the Plan Commission and Common Council that adequate funds, either public or private, are available to assure the installation of storm sewers and/or storm drainage facilities meeting the standards of the Department of Public Works, or are comparable to those established by the Department of Public Works for storm sewer and/or storm drainage facilities.
- (iii) The proposed subdivision shall be determined to have adequate sanitary sewerage facilities if located within an area in which main line interceptor sewer service is presently available, under construction, or designated by the Common Council or other local unit of government for extension of sewer service within the current capital budget year, and funds are specifically provided for such extension either from public or private financing. In its determination of the adequacy of sewerage service, the Plan Commission and Common Council shall consider the recommendation of the City Engineer, the capacity of trunk lines and sewerage treatment facilities and any other information presented.
- (iv) In its determination of the adequacy of water service, the Plan Commission and Common Council shall consider the recommendation of the Department of Public Works, the capacity of distribution lines, water sources, water storage facilities, and any other information presented.

- (v) The proposed subdivision shall be deemed to have adequate fire protection and police service when it can be demonstrated that fire and police services are so situated that adequate and timely service can be provided so as not to involve danger or injury to health, safety, or general welfare to the future residents of the proposed subdivision.

In its determination of the adequacy of fire and police services, the Plan Commission and Common Council shall consider the recommendations of the Oshkosh Police and Fire Departments or other local departments providing such services in the area of the proposed subdivision, including the grading of the Fire Department serving the area based on the American Insurance Association.

- (vi) The proposed subdivision shall be deemed to have adequate parks, open space and recreation when it can be demonstrated that the future residents of the proposed subdivision will have such park, open space and recreation services and facilities available to them, as are established by the standards in the most recently adopted Comprehensive Park and Recreation Plan for the City of Oshkosh.
- (vii) The proposed subdivision shall be deemed to have adequate school facilities when the school district in which such proposed subdivision will be located upon its development, provides information that adequate classroom space is either available within the normal walk in service area, or that adequate transportation as normally provided by the school district can be provided to elementary through high schools that have sufficient classroom space to provide for the anticipated school age children in the proposed subdivision.
- (viii) Where the Plan Commission and Common Council determine that one or more public facilities or public services are not adequate for the full development proposed, but that a portion of the area could be served adequately, or careful phasing of the development could result in all public facilities or public services being adequate, conditional approval may include only such portions or may specify phasing of the development.

## (2) Land Division Criteria

- a) Agricultural Land Division. The Plan Commission may grant approval of a land division subdividing portions of agricultural lands within the corporate limits of the City of Oshkosh or within the extraterritorial plat approval

jurisdiction, provided the Commission determines the proposed land division will assist and assure the continuation of the agricultural use.

- b) Nonagricultural Land Division. In the case of nonagricultural lands, the Plan Commission may grant approval of a land division within the corporate limits of the City of Oshkosh or within the extraterritorial plat approval jurisdiction, provided the Commission determines the proposed land division complies with each of the following criteria:
- (i) The proposed land division shall be compatible with adjacent land uses and shall maintain the general land use pattern of the area in question.
  - (ii) The proposed land division shall result in a development pattern which is compatible with surrounding developments and land uses. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
  - (iii) The proposed land division and resulting development shall not demonstrably adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations. The Plan Commission may consider annexation agreements with the property owner in order to comply with this requirement. The Plan Commission may also consider whether the City and Town(s) have reached an agreement on necessary public improvements and public service facilities required to serve the development.
  - (iv) The proposed land division shall represent infilling of vacant land. Infilling is defined as a land division which will accommodate the development of vacant land located such that surrounding existing land uses render the land impractical for any but similar uses.
  - (v) If the Plan Commission finds that adequate public facilities and public services are not available to support and serve the area of the proposed land division, the land division shall be referred to the Common Council for a final determination.

### 30-443 Preliminary Plat –

(B)(6)(c)-(e) The Secretary of the Plan Commission shall transmit copies of the preliminary plat to the Department of Public Works, and all affected boards, commissions, or departments, for their review and recommendations concerning matters within their jurisdiction. The preliminary plat shall be reviewed by the Plan Commission and its staff for conformance with this Ordinance and all Ordinances, rules, regulations, Comprehensive Plans and Comprehensive Plan components which affect it.

Approval or conditional approval of a preliminary plat is deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Common Council.

### 30-443 Final Plat

(C)(5) The City Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat, conditions of approval of the preliminary plat, this Ordinance and all ordinances, rules, regulations, Comprehensive Plans and Comprehensive Plan components which may affect it, and shall recommend approval, conditional approval, or rejection of the final plat to the Common Council.

The final plat may, if permitted by the Common Council after review and recommendation by the City Plan Commission, constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time.

The Plan Commission shall transmit the plat, together with its recommendations to the Common Council within thirty (30) days of the date of filing of the final plat with the City Clerk. The Council shall approve or reject the final plat within sixty (60) days of its submission to the City Clerk, unless the time is extended by mutual agreement with the subdivider. Reasons for rejection shall be in writing and forwarded to the subdivider.

Failure of the Common Council to act within sixty (60) days (and the time period not having been extended, and no unsatisfied objections having been filed), shall constitute approval of the final plat.

## **Approval of Certified Survey Maps / CSM**

Role: The Plan Commission is responsible for reviewing and approval of certified survey maps. The Plan Commission is responsible for final action on CSM's. Because individual property rights are specifically at issue, this is a quasi-judicial determination and requires Due Process.

### *General Procedures -- Public Hearing on Quasi-judicial Matters*

Introduce the items by title

Report site inspections / disclose communications by Commission members

Accept staff report as part of record and request staff to provide summary / technical questions to staff

Open public hearing / enforce the rules of procedure

Request statement / information from applicant

Call for any additional public comment

(the Chair may ask all questions be directed to the Commission and the Commission may follow through to seek answers as appropriate)

Close public hearing

Any closing comments from applicant

Commission action – motion adopting the staff report as the findings (with amendments as appropriate), second, discussion, vote

*Statutory Reference:* Chapter 236 Wis. Stats.

*Ordinance Reference:*

30-443(D)(3) Within thirty (30) days of receiving copies of the Certified Survey Map of the land division, the Plan Commission shall take action to approve, approve conditionally, or reject such map, and shall state in writing any conditions of approval or reasons for rejection, unless time is extended by mutual agreement with the subdivider. The Secretary of the Plan Commission shall certify on the face of the Certified Survey Map the Plan Commission's approval and return the map to the subdivider.

Criteria: ordinance specifies that CSM's must include all information required on a preliminary plat under section 30-443(D)(2) and by 236.34 of the Wisconsin Statutes.

## ADDITIONAL RESOURCES

State of Wisconsin

[www.wisconsin.gov](http://www.wisconsin.gov)

League of Wisconsin Municipalities

[www.lwm-info.org](http://www.lwm-info.org)

The League offers a number of useful handbooks and publications including a general Handbook for Wisconsin Municipal Officials

UW – Extensions Local Government Center

[www.lgc.uwex.edu](http://www.lgc.uwex.edu)



# Council Policies

# Budget Development Policy

## **SUBJECT: BUDGET DEVELOPMENT POLICY**

**General:** The process for the publication and legislative consideration of the annual budget for the City of Oshkosh is stated in Wisconsin Statutes (sections 62.12 and 65.90). Those legislative pronouncements provide the overall framework and minimum legal requirements for the city budget process. This policy outlines the process to be followed by city staff and the City Council in developing and presenting the annual operating and capital budgets for all city operations, including utilities for review and adoption.

The objectives of this policy are to provide guidance to the City Council and city staff with respect to the annual budgets for city operations, particularly with respect to balanced operating budgets. As the city must live within its means, a balance must be struck between funding sources for operations and expenditures so that the public can realize the benefits of a strong and stable government. Budget structural balance, where a balance is maintained between operating revenues and operating expenditures over the long-term, is a goal of this policy. Due to certain circumstances, an annual operating budget may be adopted in which revenues and expenditures do not equal; however, the trend over the longer term (e.g., 3-5 years) should achieve structural balance.

**Recommendation:** It is recommended by the Government Financial Officers Association (GFOA) and the National Advisory Council on State and Local Budgeting (NACSLB) that local municipalities strive to include five (5) key characteristics in the budget process:

1. Incorporates a long-term perspective
2. Establishes linkages to broad organizational goals
3. Focuses budget decisions on results and outcomes
4. Involves and promotes effective communication with the public
5. Provides incentives to government management and employees

### **Procedures:**

1. The annual budget for the city developed for presentation to the City Council will include all operations of the city, including utilities, and will include both the operating budget for the ensuing fiscal year and a capital budget based upon a ten-year capital improvement plan. Boards, committees, or commissions (e.g., Library Board, Parks Advisory Committee, Bike and Pedestrian Committee, Museum – hereinafter collectively referred to as “committee”) should review such budgets with the applicable department head before presentation to the City Council and preferably before the annual budget is finalized.
2. Before commencement of the annual budget process, the Finance Director, in consultation with the City Manager, will develop recommended budget parameters and the budget calendar. Budget parameters will include allowable increases in operating budgets, projected wage increases, targets for borrowing in accordance with the city’s debt management policy, anticipated changes in revenue sources or tax base growth, and other factors.
3. The budget calendar shall allow adequate time for committee input. The calendar should also allow for the possibility of five Council workshops; one towards the end of June to review capital projects, one toward the end of August to discuss early projections and priorities from Council, two all day sessions in October to review the recommended budget, and a final workshop may be scheduled after the public hearing. If applicable, staff will distribute budget calendars to committees who review budget submittals.

4. Certain elements of budgets that are common across departments will be calculated and/or monitored on a centralized basis to ensure comparability and budgetary control. These areas, including the authority responsible for oversight, include:
  - Salaries and benefits – Finance Director
5. The Finance Director is responsible for coordination and initial review of department budget submissions. Following initial review, the Finance Director will work with the City Manager to develop a budget. Meetings will be held with departments to review their budget requests prior to finalizing the budget.
6. Budget requests should be consistent with the city's adopted Strategic Plan.
7. The budget, consisting of the City Manager's recommendations on department requests, shall be submitted to the City Council for its consideration. Along with the executive budget submission, the following information will be reported to the City Council. A report from the City Manager as to whether the budget falls within the initial parameters established by the City Council and areas in which changes/adjustments could be considered.
8. Any new program or request for additional positions need to be submitted to the City Manager in the form of a "Budget Enhancement". Budget Enhancements will be presented to the City Council for consideration separately from the recommended budget.
9. City Council deliberations on the budget will include consideration of the budget, and department head consultation as determined by the Council. The annual operating and capital budgets will be submitted to the City Council for adoption as provided in the City of Oshkosh Municipal Code and Wisconsin Statutes.
10. The City Council will hold the statutory public hearing in early November. Prior to the public hearing, city staff will provide public notice of the recommended budget and public hearing in compliance with the requirements of the Wisconsin Statutes governing the budget process and the Wisconsin Open Meetings Law.
11. The City shall annually adopt a balanced budget for the General Fund where operating revenues and other funding sources are equal to, or exceed, operating expenditures. Funding sources that can be considered in adhering to this provision include that portion of General Fund balance in excess of the minimum, per the city's Fund Balance Policy, that may be budgeted to reduce the ensuing year's tax levy. Any increase in expenditures, decrease in revenues, or combination of the two that would result in a budget imbalance during the current fiscal year will be reported to the City Council. Any year-end operating surpluses will revert to unreserved fund balance for use in maintaining reserve levels set by policy.
12. Enterprise funds shall be supported by their own rates and specified revenue sources, including property taxes as deemed appropriate by the City Council, and not be subsidized by the General Fund. Enterprise funds will pay their share of overhead services provided by General Fund departments. Enterprise fund operating surpluses will not be used to subsidize other city funds.
13. Sufficient charges shall be levied to operating departments to support activities accounted for in the Internal Service Fund. No trend (3-5 years) of operating deficits in the Internal Service Fund shall be allowed.

14. The operating budget shall serve as the annual financial plan for the city and as the policy document for implementing Council goals and objectives outlined in the city's Strategic Plan. The budget shall provide staff the resources necessary to accomplish City Council determined service levels. The city's annual budget document will be presented by department, with a logical breakdown of programs and line-item detail. Separate summary budget information will also be presented for discussion and review by the City Council and the public. A future goal, if practical, may include in the annual budget document measures of workload, efficiency, and effectiveness.
15. The City Council exercises legal budgetary control at the fund level, however within the budget document the city reports functional and departmental activity levels. Budget accountability rests primarily with the operating departments of the city, with oversight by the City Manager.

# CIP Policy

**SUBJECT: CAPITAL IMPROVEMENT PLANNING PROCESS & POLICY**

**General:** The intent of the capital improvement planning process and policy is to insure that the City of Oshkosh has set in place a long-term plan regarding improvements and replacement of buildings, equipment, parks, and public infrastructure, including its utilities. It is prudent that management have a process where these items are reviewed and scheduled to be replaced outside of and prior to the annual budget process. A formally adopted policy will provide a decision making process based on evaluation, selection, and multi-year scheduling of capital projects.

**Policy Management:**

- The City Council must approve a ten-year capital improvement plan that is updated annually.
- The ten (10) year capital improvement plan will include consideration of major equipment replacement needs as well as any other projects or future capital expenditures.
- The City Council will hold at least one Capital planning workshop. The meeting is an open meeting under Wisconsin Statutes and the Council shall provide the opportunity for public input at this meeting.
- The Capital Improvement Planning process will begin at a staff level in March and the Capital Planning workshop(s) should be expected to occur in June.
- The first year of the ten-year capital improvement plan with consideration of any changes will be rolled into the current year capital improvement budget during the annual operating budget process.

**Strategic Plan**

The City of Oshkosh adopts a new Strategic Plan every two years that provides a “roadmap” for the City’s future. Depending on internal and external circumstances, the Strategic Plan contains several priority goals for the City to undertake. Each goal is intended to support the larger vision for the City and to point the way of progress toward that vision. The goals of the Strategic Plan are incorporated in the annual Capital Improvement Program development process, providing City staff the framework in which to allocate resources to meet the goals.

**Definitions**

Capital Outlay – Individual items with minimum value of at least \$5,000 and life greater than one year (Included in operations budget).

Capital Project – Individual items with minimum value of at least \$10,000 and has expected life of at least ten years. (Not included in operations budget).

Capital Improvement Plan (CIP) – A comprehensive schedule or program of approved capital improvement projects. The plan shall be for a ten-year period. The plan shall be annually revised and shall meet borrowing guidelines provided by the Common Council for the first two years of the plan. The remaining seven years will provide an estimate of the financial resources needed to complete the plan.

Capital Improvement Budget – The first year or current planned expenditures of the ten-year CIP which will; be funded as part of the operating budget for the City for capital outlays.

## Useful Life Policy

All City assets will be assigned a useful life as a means to plan for capital project expenditures, as well as meet Governmental Accounting Standards Board's (GASB) Statement 34 which requires state and local governments to depreciate their exhaustible capital assets, including infrastructure. The term "useful life" will be determined by either accepted standards & practices and/or best estimate based on industry or prior experience(s). Recommended estimates for "useful life" are as follows:

### Buildings and Building Improvements

Buildings Found/Frame/Structure	40 years
Building Improvements	20 years

Parking Lots	25 years
Paths and Trails	25 years
Retaining Walls	20 years
Tennis & Basketball Courts	20 years

### Infrastructure

Roads & Highways (includes curb & gutter)	
Sealcoats	3 years
Asphalt (Cold-Mixed)	5 years
Asphalt (Hot-Mixed)	12 years
Concrete Pavement	25 years
Sewer Mains, Lift Stations	50 years
Sanitary Mains	50 years
Storm Mains	40 years
Sidewalks	20 years
Street Lights	30 years
Water Mains	75 years
Water System	40 years
Wells & Pump Houses	30 years

### Machinery and Equipment

Business/Office Equipment	8 years
Custodial Equipment	5 years
Fire Department Equipment	7 years
Furniture	15 years
Grounds Equipment – Mowers	7 years
Kitchen Equipment – Appliances	10 years
Mounted Equip w/Truck Chassis	8 years
Outdoor Equipment – Playgrounds	20 years
Plazas and Pavilions	40 years
Radio Communications	7 years
Water Meters	20 years

### Land/Land Improvements

Land	No Depreciation
Athletic Fields, Bleachers	15 years
Benches, Tables, Grills	5 years
Fencing, Gates	20 years
Landscaping, Ball Park	25 years
Outdoor Equipment	20 years
Outdoor Lighting	20 years

### Vehicles

Squad Cars	4 years
Transit Buses	10 years
Cars, Light Trucks & Vans	10 years
Heavy trucks (more than 13,000lbs)	10 years
Fire Trucks	15 years
Heavy Equipment-Loaders, Graders	10 years

## Funding Plan:

Delaying capital maintenance and replacement of equipment results in higher future costs and decreased resident service and quality of life. The City recognizes that large increases to property taxes are not desirable and has adopted this Policy and the Capital Improvement Budget Policy to provide for annual review of buildings and equipment to allow for planned expenditures.

- As part of the annual capital improvement plan process, the Finance Director will develop for consideration by the City Council a target for changes in the property tax levy necessary for debt service in subsequent budget years. Such target will be used to develop guidelines for the level of borrowing to be used in supporting the annual capital improvement budget. The target will be based on a combination of factors including, but not limited to, expected growth in tax base, inflation rates, or similar factors. The borrowing target may be exceeded with the approval of a 2/3 majority of the City Council.
- The City desires to fund items that are not financed by debt through annual operating revenues.
  - The City designed a ten-year funding plan, which shows how the desire above can be reached.



- The plan uses a combination of reserves on hand, incremental tax levy increases of 3% and debt service tax levy that will become available in future years to fund annually recurring purchase requests.
- The ten-year plan calls for these funds to be relied on over the next several years, then builds the reserve balance back up slightly. The use of these reserves will allow the City to gradually increase the tax levy to fund these purchases rather than including large one-time jumps.

#### **Procedures:**

1. The City begins the capital planning process by summarizing all existing capital assets including equipment, buildings, and infrastructure assets purchased with an individual value more than \$5,000. This inventory listing includes the year the asset was purchased, estimated life, and estimated replacement year.
2. A review of the CIP policy and the analysis of available and acceptable funding levels for projects in the CIP will be conducted in January and February prior to the distribution of the Budget Preparation Calendar.
3. Department heads then complete a capital needs assessment. Departments will be provided with a listing of capital assets for their review and updates. One part of that assessment is to review their existing asset inventory and ensure that assets needing replacement during the next ten years are requested. Departments can also consider requests from their respective Board or Commissions.
4. The Budget Preparation Calendar will be prepared by the Finance Department and distributed to the City Manager, City Council, and Department Heads in March of each year.
5. Submission of project requests covering a ten-year period are delivered to the Finance Director by the middle of May. The Finance Department will assemble the requests for internal meeting by the end of May. The preliminary or Draft CIP is created. The Plan Commission will review the Draft CIP to assure it is consistent with the City's Comprehensive Plan.
6. Once all capital purchase requests are received by the Finance Director, they are split into three groups.

**Non-Debt Financed Purchase Requests:** Non-debt financed purchase requests can be thought of as falling into one of three categories: annually recurring, smaller dollar purchases or shorter-lived assets. The City desires to finance those purchases which recur annually through annual revenues rather than borrowed funds. This method allows for tax rate stabilization and lower debt service payments due to fewer borrowings. The City also desires not to borrow for lower cost assets as the cost of financing can become too high in comparison to the asset's overall value. In some cases, it is the combination of dollar amount and asset life that results in the asset being shown within this category.

**Debt Financed Purchase Requests:** Debt financed purchase requests are higher cost, more infrequent purchase requests. Due to the infrequency of purchase, paying for these assets with annual operating funds would lead to a tax rate which may fluctuate significantly from one year to the next. In order to maintain tax levy stability, the City plans to finance these purchases with long-term debt.

**Stormwater, Sanitary Sewer, and Water Utility Purchase Requests:** These requests are primarily for infrastructure improvement that relate to one of the City's utilities. The costs of these assets may be financed through user fees and funds on hand or the issuance of long-term debt. If debt financing is used the debt will be repaid through user fees of that utility, rather than through the general tax levy.

7. The Finance Director and City Manager will meet with the Department Heads to review project requests to verify that they are in line with the City's overall goals and prioritize or rank the projects to meet the City goals and Strategic Plan. These meeting will occur during the month of June
8. The Finance Director and City Manager then present a draft ten year Capital Improvement Plan to the City Council for their consideration at a Capital Planning workshop held at the end of June or early July.
9. The ten-year Capital Improvement Plan will be presented to the Plan Commission in August to ensure that the plan aligns with the City's Comprehensive Plan.
10. The Capital Improvement Plan will be scheduled for Council approval at the second meeting in August.
11. Once the Capital Plan has been approved, the first year of the Capital Improvement Plan will be rolled into the Capital Improvement Budget and with will go through further review during the annual operating budget process.

### **CIP Ranking Process**

Thirteen evaluation criteria have been developed to assist with prioritizing initial project requests. Each project included in the CIP will be evaluated against this criterion. This ensures the most objective process possible and leads to consistent decision making. The scoring which is derived from the tools below will assist the City Manager in prioritizing and preparing the final CIP plan. Every project is evaluated against each criterion and assigned points on a scale of 15, 10, 5, or 0. The project review criterion consists of the following categories:

- |  |   |
|--|---|
| • Conformity to Approved City Strategic Plan or Department Plan(s) | • Percentage of Population Served                               |
| • Financial Commitments and Leverage of Outside Funding            | • Project/Item Life   |
| • Mandates   | • Estimated Frequency of Use (Ave Per Year)                     |
| • Public Health and Safety   | • Service Level   |
| • Implementation Feasibility                                       | • Linkages to Other CIP Projects or Other Organization Projects |
| • Operating Budget Impact  | • Infrastructure Investment/ Protection                         |
|  | • Encouragement of Economic Development                         |

The City Manager also reserves the right to assess an extra 5 points per project.

**SUBJECT: CAPITAL IMPROVEMENT BUDGET POLICY**

**General:** The City of Oshkosh has a substantial investment in buildings, equipment, parks and public infrastructure, including its utilities. Prudent management of these investments is the responsibility of City government. In order to fulfill this responsibility but remain within fiscally prudent parameters, the City has enacted this policy for development of the Capital Improvement Budget. This policy applies to all capital budgets of the City, including general City functions (tax-funded debt) and utility funds.

**Procedures:**

A. Budget Considerations

1. The City will enact an annual Capital Improvement Budget based upon a ten-year Capital Improvement Plan.
2. The City will coordinate development of the annual Capital Improvement Budget with the development of the operating budget. Future operating costs associated with new capital improvements or major equipment purchases will be projected and included in the operating budget. Approval of the annual Capital Improvement Budget shall take place at the same time as approval of the annual operating budget.
3. As part of the annual capital improvement plan process, the Finance Director will develop for consideration by the City Council a target for changes in the property tax levy necessary for debt service in subsequent budget years. Such target will be used to develop guidelines for the level of borrowing to be used in supporting the annual Capital Improvement Budget. The target will be based on a combination of factors including, but not limited to, expected growth in tax base, inflation rates, or similar factors. The borrowing target may be exceeded with the approval of a 2/3 majority of the City Council.
4. Utility projects not funded via special assessments, grants, or similar funding sources other than utility rates will be analyzed for future rate impacts as part of the annual capital improvement plan process. Utility projects will be coordinated with City projects to minimize costs and inconvenience to the residents.
5. Development-related projects for which tax incremental financing might be considered will be considered outside of the borrowing targets noted above due to the dedicated revenue stream (tax increments or other sources) used to pay the debt.
6. Each Department Head will develop the annual capital improvement plan for his or her respective department. The projects approved for the current year in the Ten Year Capital Improvement Plan will be rolled into the Capital Improvement Budget.
7. To meet the targets established by the City Council, projects, particularly those to be funded via borrowing, will be reviewed and prioritized by the City Manager, and coordinated by the Finance Director prior to being presented to the City Council for approval.
8. Capital improvement expenditures shall include any amounts expended for equipment or other assets with a useful life of five years or more and/or which involve amounts more than \$5,000. Expenditures not meeting these criteria, or which have a useful life of less than the payback period of the funds to be borrowed, shall be included in the City's annual operating budget as applicable.

9. Facility improvement projects are subject to the dollar and useful life thresholds indicated above. In addition, facility projects to be included in the capital improvement budget should involve major renovations that change the floor plan, wall locations, modifications to the structure, or modifications to building mechanical systems. Items that do not meet these criteria should be included in department operating budgets.
10. The City will make all capital improvements in accordance with the approved annual Capital Improvement Budget. Any variance from the approved budget that would require a supplemental appropriation, or to add, delete or substitute projects, requires the approval of the City Council.

B. Financing Considerations

1. The City will utilize the least costly advantageous financing method for all new projects.
2. Each department will identify the estimated costs and potential alternate funding sources for each capital improvement project proposal.
3. The City will utilize available grant funds and other intergovernmental assistance to finance those capital improvements that are consistent with the Capital Improvement Plan and the City's priorities.

C. Other Considerations

1. The City will maintain all of its assets at a level adequate to protect the City's capital investment and to minimize future maintenance or replacement costs.
2. The City will maintain adequate equipment utilization and maintenance records to support its Capital Improvement Plan and to assure proper maintenance of equipment.

# Debt Management Policy

CITY OF OSHKOSH  
CITY COUNCIL POLICY STATEMENT

General Subject: Administration

Date Drafted: 9/23/2019

Revised: 8/23/2022

Special Subject: Debt Management

Effective Date:

Purpose

To record and clarify the City Council's policy regarding the management and issuance of debt.

Statement of Policy

A debt policy is a tool which sets rules and provisions for the management of existing debt, issuance of additional debt and prompt and timely payment of all debt service.

Such a policy improves the quality of decisions, provides justification for the structure of debt issuance, identifies policy goals, demonstrates a commitment to long-term financial planning and maintains the City's credit rating. A well-managed debt program should allow for funding of capital projects within anticipated funding sources.

The City of Oshkosh recognizes the primary purpose of using debt financing is to support the provisions of service to its residents. Using debt financing to meet the capital needs of the community must be evaluated according to three tests: Efficiency, effectiveness, and social equity. The test of efficiency equates to the highest rate of return for a given investment of resources. The test of effectiveness refers to a program creating a net benefit to residents. The test of social equity refers to a financed project promoting fairness in the delivery of service to all residents.

Types of Debt and Uses

- A. General Obligation Bonds and Promissory Notes. The defining feature of general obligation debt is the source that secures its repayment: an ad valorem tax levied on all taxable property within the limits of the municipality at the time the general obligation debt is issued. Chapter 67 of the Wisconsin statutes governs the issuance of various general obligations known as "general obligation" bonds or notes.

General obligation bonds may be issued by a municipality to finance projects as allowed by Wisconsin State Statute that are undertaken for a public purpose. The term of general obligation bonds is limited to 20 years from the original date of issuance.

General obligation promissory notes may be issued for any public purpose. Unlike bonds, the issuance of notes is not limited to projects. Therefore, notes can be issued to fund general and current capital expenses other than those permitted in connection with bonds. The term of notes is limited to ten years from the original date of issuance.

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CITY COUNCIL POLICY STATEMENT

General Subject: Administration

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Special Subject: Debt Management

Effective Date:

The City of Oshkosh shall limit issuance of bonds and notes exclusively for the acquisition, planning, design, construction, development, extension, enlargement, renovation, rebuilding, repair or improvement of land, waters, property, streets, buildings, economic development projects, equipment or facilities when it can be determined that future citizens will receive a benefit from the improvement(s) and the asset(s) outlive the length of the debt issued. Incidental to the issuance of bonds and notes, a portion of the proceeds can also be used to pay the associated issuance costs and capitalized interest when appropriate. Proceeds from long-term debt shall not be used to fund current operating costs.

- B. State Trust Fund Loans. The Board of Commissioners of Public Lands of the State of Wisconsin has funds available to loan to Wisconsin cities and villages. The Board may loan trust fund money to a city for any project undertaken for a public purpose consistent with the purposes allowed for issuance of general obligation bonds. The term of trust fund loans is limited to 20 years, and the loans may be secured by either a general obligation pledge, or a pledge of revenues.

State trust fund loans should also be considered when the interest rate offered makes the cost of borrowing less than or comparable to general obligation bonds and notes after considering the cost of issuance, or when flexible prepayment terms are required.

- C. Revenue Bonds. Revenue bonds may be issued to finance public utilities, economic development projects or other projects allowed by Wisconsin State Statute. Repayment for this type of loan is made from the underlying revenues generated by the project. Revenue obligations have no claim on the taxes or other general revenues of the issuing municipality. Revenue obligations give municipalities the ability to recover the cost of a project from beneficiaries of the project or users of the facility. Chapter 66 of Wisconsin Statutes governs the issuance of revenue obligations.

The City of Oshkosh should limit the use of revenue bonds to capital improvements for its water utility or other such enterprise utilities which may be created, economic development projects, or other projects as allowed by Wisconsin State Statute. Incidental to the issuance of the bonds, a portion of the proceeds can also be used to pay the associated issuance costs, required reserve funds and capitalized interest when appropriate.

- D. Capital Leases. Capital lease financing shall be considered only if verifiable operating savings, when properly discounted, outweigh the lease financing costs.

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Written justification detailing the explanation of factors considered including cash flow analysis reviewed by the Finance Director will be submitted and approved before any lease is entered into.

- E. Other Debt Instruments. The City of Oshkosh shall primarily use those types of debt instruments outlined above. Other types of debt instruments can be used as appropriate if their use is necessary or advantageous to the City. If other types of debt instruments are utilized, applicable state and federal guidelines shall be followed. The City will attempt to limit the use of short-term debt to bond anticipation purposes. Proceeds from long-term debt shall not be used to pay for current operating expenses.
- F. Conduit Debt. From time to time, the City may be asked to act as a conduit to the bond market by for-profit or not-for-profit entities to promote economic development or secure quality of life issues. Prior to using the City as a conduit to the bond market, the entity shall provide substantive proof acceptable to the City that no budget appropriation shall be required to pay the debt. The City shall not allow the issuance of such debt on behalf of the entity, if doing so would prevent the City from issuing "bank qualified" debt for its own purposes without compensation from the entity to cover the additional debt service cost.

Debt Limitations.

- A. Maximum amount of indebtedness. Section 67.03(1) of the Wisconsin Statutes provides that the amount of indebtedness of a municipality shall not exceed 5 percent of the equalized valuation of the taxable property in the municipality. Although State Statutes allow 5 percent of the equalized valuation, the City has set an internal debt goal, which seeks to remain below 3 percent (60% of the maximum amount allowed by the State Statutes). The City will strive to reach a goal of 2 percent (40% of the state debt limit).
- B. Net Direct Debt. Net Direct Debt should not exceed three times (3X) the operating revenues of the City.
- C. Asset life shall be longer than the debt issued for its purchase. The City shall consider the useful life of the project assets being financed and the long-range financial and credit objectives when determining the final maturity structure of the debt.



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- D. Spend down of borrowed proceeds. All debt taken out will be for shovel-ready projects. Funds will be expended in accordance with applicable IRS rules pertaining to rebate and yield restriction as set forth in the tax certificate for each tax-exempt debt obligation. Should this schedule not be met, the balance of the amount borrowed and not spent will be applied to reduce the debt service levy after reserving any amounts needed to pay rebate, or to make yield restriction payments. Each tax-exempt debt obligation will be closely monitored so that it adheres to IRS regulations in respect to arbitrage and spend down rules.
- E. The City of Oshkosh shall utilize any debt obligations it has at its disposal to take advantage of the lowest cost of the debt or for another benefit for the City.
- F. The City of Oshkosh will follow a policy of full disclosure on every financial report and bond prospectus.

Credit Objectives.

- A. The City of Oshkosh will strive to maintain or improve its current ratings with Moody's Investor Services:

- 1. General Obligation - Aa3
- 2. Sewer Enterprise – Aa3
- 3. Water Enterprise – Aa3
- 4. Storm Water Enterprise – A1

The City will strive to maintain good relations with the rating agency and keep them informed of significant developments that could affect the City's credit rating.

- B. The following objectives will be used to maintain debt service requirements at an affordable level and enhance the credit quality of the City:
  - 1. The levy for debt service shall be no greater than 33 percent of the total levy, with an effort to maintain the levy at a proportionate, even level for tax rate stabilization.
  - 2. Debt amortization should be structured so that 65% or more of total direct debt principal is retired in 10 years or less.

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- C. Each year, as part of the budget process, the City Council should consider the percentage increase in the tax levy for debt service for the year following the issuance of the debt. Flexibility to fund future expenditures necessary to provide essential City services and economic viability are essential considerations.

Debt Issuance

- A. An analysis will be prepared by City staff for each proposed financing; such analysis will assess the impact of debt issuance on current and future operating and capital budgets and address the reliability of revenues to support debt service payments.
- B. All feasible alternatives (for example, State Trust Fund loans, Clean Water Fund loans, and private placements with local financial institutions) for borrowing funds should be considered by the City depending on the uniqueness of the items or projects being financed by long-term debt.

Method of sale

- A. The City shall issue debt through a competitive bidding process with the exception of Council authorized negotiated sales. Bids will be awarded on a true interest cost (TIC) basis, providing other bidding requirements are satisfied. In the instance in which staff believes competitive bidding produced unsatisfactory bids, the Council may authorize the Finance Director and its financial advisors to negotiate the sale of the securities.
- B. Negotiated sales of debt will be considered in circumstances when complexity of the financed project, sources of revenue for repayment, market conditions, timing requirements, or other factors suggest that a competitive sale will not result in the lowest cost of financing for the City, or the ability to successfully market the securities.

Refinancing / refunding of debt

- A. Periodic reviews of outstanding debt will be undertaken to determine refinancing or refunding opportunities. Refinancing or refunding opportunities will be considered (within federal tax law constraints) if and when there is a net economic benefit for the refinancing or refunding.
- B. In general, the City may capitalize on a refinancing or a refunding opportunity for economic savings when net present value savings of at least 2 percent of the refinanced / refunded debt can be achieved. Current refinancing or refunding that produce net present values savings of less than 2 percent

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Effective Date:

savings may be considered when there is a compelling public policy or long-range financing policy objective.

Disclosure

- A. The City is committed to full and complete financial disclosure, and to cooperate fully with rating agencies, institutional investors, other units of government, and the general public to share clear, comprehensible, and accurate financial information.
- B. The Finance Department will ensure compliance with the terms of each continuing disclosure undertaking the City has entered into for each debt issuance subject to Securities and Exchange Commission Rule 15c-2-12.

Bond Counsel, Financial Advisors, and Debt Rating Agencies.

- A. Bond counsel, financial advisors, and debt rating agencies will be selected as necessary according to state statutes and City procurement policies.
- B. The City will utilize the services of a qualified financial advisor for preparing and marketing the City's bond issues and for monitoring its debt and debt service.
- C. The City should strive to maintain a long-term relationship with a financial advisor to allow for continuity and consistency in services provided by the advisor. However, the arrangement between the financial advisor and the City should be examined every three (3) to five (5) years or as deemed necessary by City administrative staff and the City Council.
- D. The City will work with the financial advisor to ensure that long-term debt issues are structured to protect the interest of the City for the present and in the future (for example, the inclusion of call provisions to protect the City against future interest rate fluctuations or other circumstances).

# Fund Balance Policy

CITY OF OSHKOSH  
CITY COUNCIL POLICY STATEMENT

General Subject: Administration

Date Drafted: 7/29/2020

Special Subject: Fund Balance

Revised: 5/09/2023

Effective Date:

**General:** The objectives of this policy are as follows:

- Provide working capital for the City to meet cash flow needs during the year (while avoiding the need to cash flow borrow).
- Preserve the credit worthiness (credit rating) of the City for borrowing funds at favorable interest rates.
- Provide a comfortable margin of safety to address unanticipated expenditures / emergencies and unexpected declines in revenue due to economic downturns, natural disasters, etc.
- Provide a resource to stabilize fluctuations from year to year in the property taxes paid by the (city, City, town, county) taxpayers.

**Policy:** The City of Oshkosh has implemented Governmental Accounting Standards Council (GASB) Statement No. 54 *Fund Balance Reporting and Governmental Fund Type Definitions*. All definitions within the Fund Balance Policy will be in agreement with GASB No. 54. GASB No. 54 has identified 5 levels of restrictions on fund balance. The levels are defined below.

- *Nonspendable fund balance*—amounts that are not in a spendable form (such as inventory) or are required to be maintained intact (such as the corpus of an endowment fund)
- *Restricted fund balance*—amounts constrained to specific purposes by their providers (such as grantors, bondholders, and higher levels of government), through constitutional provisions, or by enabling legislation
- *Committed fund balance*—amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest-level action to remove or change the constraint
- *Assigned fund balance*—amounts a government *intends* to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority
- *Unassigned fund balance*—amounts that are available for any purpose; these amounts are reported only in the general fund.

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General Subject: Administration

Date Drafted: 7/29/2020

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Special Subject: Fund Balance

Effective Date:

**Procedures:** In order to achieve the objectives of this policy, the following guidelines shall be adhered to by the City Council:

1. As part of the annual budget process, the Financed Director will estimate the surplus or deficit for the current year and prepare a projection of the year-end fund balance. Such projection will include an analysis of trends in fund balance levels on a historical and future projection basis.
2. Withdrawal of any amount of the fund balance in excess of the targeted maximum of the amount budgeted under (1) above, for the sole purpose of reducing the ensuing year's property tax levy, may be made only upon a two-thirds vote of the City Council.
3. The City Council, by a two-thirds vote, can declare a fiscal emergency and withdraw any amount of general fund balances for purposes of addressing the fiscal emergency. Any such action must also provide for necessary appropriations to restore the general fund balance to the minimum balance with a set plan approved by the City Council
4. The unassigned general fund balance shall be maintained as of December 31 of each year equal to a minimum of 16% of the ensuing year's budgeted general fund expenditures, with a targeted maximum of 30% of the ensuing year's budgeted expenditures.
5. Funds in excess of 30% of the unassigned fund balance target may be considered to supplement "pay as you go" capital outlay expenditures (including reduction of anticipated debt issues) or to prepay existing debt via cash defeasance as allowable. The decision of how to use these funds will be made by the City Council. Unassigned fund balance shall not be used to support recurring operating expenditures.
6. If, at any time, the unassigned general fund balance is lower than the above stated amount, the City Council, shall implement a plan to rebuild the unassigned fund balance to the minimum level. This may include increasing the annual budget to replenish the fund (over a period of one or more years) or applying the remaining unexpended general fund resources at the end of a fiscal year.

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Effective Date:

7. The City of Oshkosh will report at the end of each fiscal year the portion of the fund balance that is not in spendable form as Non-spendable fund balance on the financial statements.
8. At the end of each fiscal year, the City will report "restricted" fund balance for amount that have applicable legal restriction per provisions of GASB #54. Normally fund balances in debt service funds and capital project funds with remaining long-term debt proceeds will be reported as "restricted".
9. The City of Oshkosh will maintain appropriate commitments or assignments of general fund, special revenue funds, debt service funds and capital projects funds for specified purposes, including but not limited to contingencies, compensated absences, or similar items. Commitments and / or assignments of fund balance shall be made by the City Council.

**Balance Requirements:**

**General Fund**

- The targeted unassigned fund balance restrictions shall apply to the General Fund only. The General Fund has greater bearing on the outlook of the City as a whole compared to the other City Funds.

**All Other City Funds**

- Every City Fund will have its fund balance categorized with the five categories pursuant to GASB 54. While the City encourages each fund to meet the 16% minimum balance, the General Fund is the only fund that has the requirement. The revenues, expenditures, and functions of each fund are different making the 16% minimum difficult to require.

**Minimum Working Capital for Enterprise Funds**

- Minimum targeted working capital for Enterprise Funds should equal six months of next year's operating expenses, including depreciation, plus 100% of next year's debt payments.

# Cash Handling Policy



CITY OF OSHKOSH  
CITY COUNCIL POLICY STATEMENT

General Subject: Administration

Date Drafted: 6/07/2023

Special Subject: Cash Handling

Revised:

Effective Date:

PROCEDURES FOR RECONCILING AND DEPOSITING FUNDS:

The collections department will perform a daily reconciliation of their transactions, and a deposit of any funds that exceed \$500 in their drawer. A deposit slip will be completed and all cash and checks will be bound together. All cash, checks, sales slips, receipts, and other applicable documents must be secured and safeguarded. All cash and checks must be receipted by the cash register. All checks must be endorsed immediately upon receipt by the department.

The total of the deposit should agree with the total of the daily receipts. Routinely, the above records need to be reviewed by someone other than the individuals involved in the above functions. All money received is to be deposited with the City's operating bank. No money is to be withheld from a deposit in order to cash personal checks or to purchase miscellaneous items for the department. Purchases made in this manner reduce the amount of revenue and expenditures reported and weaken the internal control procedures. The practice of netting program revenue is not allowed.

All overages and shortages should be reported to the supervisor as soon as they are discovered. The employee responsible for the cash must report any shortages immediately to his/her supervisor. To enhance the internal control over money, a segregation of duties within the department needs to occur whenever possible, so that errors or irregularities are prevented or promptly detected. The duties of one employee should provide a cross-check of the work of one or more employees.

CONTROLS FOR CASH HANDLING:

If you take payment in cash and to prevent errors and potential disputes you should:

- Talk through the transaction with the customer.
- Segregate bills by denomination before you count the money.
- Take your time in counting cash.
- If an interruption occurs during the counting process, the counting must be stopped and started again from the beginning.
- Strap money when receiving a large amount of bills.
- Double count large amounts and payments which involve many bills (two people should count it and an adding machine tape may be used).
- Inspect large bills closely (\$20, \$50 and \$100) for counterfeit.
- Keep money received in view but out of reach of the customer until the transaction is complete.
- Always receipt the same amount of cash as you place in the till.
- Cash should be immediately placed in the till as soon as the transaction is complete.
- Do not handle two transactions at once, i.e. don't make change in the middle of taking a payment even for the same customer.

If you take payment in cash and to prevent errors and potential disputes you should:

- Checks for City revenue should be made payable to the "City of Oshkosh."
- Examine the check as follows:

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Effective Date:

- Has it been altered?
- Is it signed? Does preprinted name agree with the signature?
- Does the numbered amount agree with the written amount?
- Is the check post-dated? ~ DO NOT ACCEPT
- Never agree to hold a check for anyone
- Restrictively endorse the check as soon as you receive it.
- Personal and company checks are accepted for the amount of sale only.
- Discrepancy between Numeric and Written Amounts: When the numeric and written amounts on a check do not agree, a new check should be requested. If a corrected check cannot be obtained, steps must be taken to ensure collection of the correct amount.

**SAFEGUARDING:**

Cash and checks are to be secured and safeguarded. Access to cash and checks is to be restricted to those employees who are assigned fiscal responsibility. All cash receipts are to be deposited same day or the next business day. The number of employees with knowledge of the safe combination is to be kept to an absolute minimum.

All losses resulting from or involving actual or suspected theft, burglary or robbery must be reported immediately to the supervisor, the Police Department and the Finance Director even if no loss actually occurred. The supervisor shall prepare a written report documenting the events and provide a copy to the Finance Director along with the police report. All losses resulting from errors in record-keeping or making change (mysterious disappearance) where theft is not suspected shall be recorded and be available for audit upon request.

# Capitalized Fixed Asset Policy

**SUBJECT: CAPITALIZED FIXED ASSET POLICY**

**General:** To establish a general policy for Capitalized Fixed Assets including standards for valuation of assets with a useful life greater than one-year.

**Objectives:**

- A. The City's Record of Capital Assets shall include general fixed assets, i.e., non-infrastructure assets. Infrastructure assets are assets that are immovable and of value only to the City government, e.g., buildings, sewers, and streets. As a general rule, "capitalized" items maintained within the City's Record of Capital Assets shall have an expected useful life greater than one year and a purchase, donated or assessed value equal to or greater than \$5,000. For computer equipment, initial operating software shall be included but subsequent operating software and application software shall be excluded.
- B. Major costs subsequent to the acquisition of the asset should be classified as either an improvement or maintenance. Improvements lengthen useful life or increase service capacity (effectiveness or efficiency) and are capitalized. Maintenance retains the asset's value and keeps the asset in normal working condition, thus is expensed.
- C. **Asset Valuation**  
Departments shall record long-term assets at historic cost or, if the cost is not readily determined, at estimated historic cost. Cost shall include applicable ancillary costs. All costs shall be documented, including methods and sources used to establish any estimated costs.
  - 1. **Purchased Assets** – the recording of purchased assets shall be made on the basis of actual costs, including all ancillary costs, based on vendor invoice or other supporting documentation.
  - 2. **Salvage Value** – the recording of purchased assets that are expected to be sold at retirement should be recorded with the historical estimated sale value if in excess of \$5,000.00. If sale value is less than \$5,000.00, normal depreciation for the useful life will be used.
  - 3. **Self-Constructed Assets** – All direct costs (including labor) associated with the construction project shall be included in establishing a self-constructed asset valuation. If a department is unable to specifically identify all direct costs an estimate of the direct cost is acceptable, but must be supported by a reasonable methodology.
  - 4. **Donated Assets** – Fixed assets acquired by gift, donation or payment of a nominal sum not reflective of the asset's market value shall be assigned cost equal to the fair market value at the time of acquisition.
  - 5. **Leased Property** - Capital lease property should be recorded as an asset and depreciated as though it had been purchased.
  - 6. **Dedicated Assets** – Required installation by Developer of public improvements, including but not limited to sanitary service mains, manholes, laterals and all appurtenances, water mains, laterals, hydrants, valves and all appurtenances,

storm sewers, storm water management measures, streets, curb and gutter, street lights, street signs, sidewalks will be dedicated to the City upon completion. Recording of infrastructure assets will be made on the basis of actual costs, including all ancillary costs, based on vendor invoice or other supporting documentation provided by the Developer.

7200's OBJECT SERIES		
Capital Outlay, Capital Project, and Capital Improvement Program		
1. <b>Capital Outlay</b> – <b>Individual</b> items with minimum value/cost of at least \$5,000 <b>AND</b> life greater than one year.		
2. <b>Capital Project</b> – <b>Individual</b> items with minimum value/cost of at least \$10,000 <b>AND</b> has expected life of at least ten years.		
NEW OBJECT#	OBJECT DESCRIPTION	DEFINITIONS/VENDORS
7202	Office Equipment	Desks, Chairs, Cubicles, Toughbooks, Filing Cabinets, Telephones, GIS Equipment
7204	Machinery & Equipment	Excavators, Skid steers, Mowers, Turnout Gear, Fire Hose, Generators, Equipment Attachments
7210	Motor Vehicles - Licensed & Road Ready	Vehicle to include all specialty modifications to be put into service and road ready. Include registration, licensing, and equipment needed for modifications.
7212	Radios - Emergency Communication Equipment	Two-way Radios
7214	Buildings & Building Improvements	<b>Building Definition:</b> A building is a structure that is permanently attached to the land, has a roof, is partially or completely enclosed by walls and is not intended to be transportable or moveable. Buildings that are ancillary to the state's highway network, such as rest area facilities and toll buildings, are reported as infrastructure rather than as buildings. <b>Building Improvement Definition:</b> Building improvements are capital events that materially extend the useful life of a building or increase its value, or both. A building improvement should be capitalized and recorded as an addition of value to the existing building if the expenditure meets the capitalization threshold.
7216	Land & Land Improvements	<b>Land Definition:</b> Land is the surface or crust of the earth that can be used to support structures and may be used to grow crops, grass, shrubs and trees. Land is characterized as having an unlimited (indefinite) life. <b>Land Improvement Definition:</b> Land improvements consist of site preparation and site improvements (other than buildings) that ready land for its intended use. The costs associated with improvements to land are added to the land value.
7218	Road Improvements	<b>Road Improvements:</b> means improvements to existing roads, construction of new roadway improvements and acquisition of land necessary or convenient for the improvement of traffic circulation.
7222	Fine Art Exhibition	Museum - Works of art and historical treasures are collections or significant individual items that are owned by a state agency and held for public exhibition, education or research as part of a public service rather than for financial gain. The costs associated with presenting the Exhibition are added to the value.
7230	Computer Software	Software/Subscriptions that exceed 12 months and exceeds \$5,000 in costs.

# Investment Policy

## **City of Oshkosh, WI Investment Policy**

### **SCOPE**

This policy applies to all funds under the authority of the City of Oshkosh, Wisconsin (the “City”) not immediately needed to meet operating expenses of the City. Specific funds covered under this policy include General, Special Revenue, Debt Service, Capital Projects, Sewer, Enterprise, Trust and Agency, and any newly created fund(s) unless specifically exempted. Financial assets of funds not under the authority of the City are administered in accordance with a separate policy.

### **I. GENERAL OBJECTIVES**

The primary objectives of investment activities shall be safety, liquidity, and return:

#### **1. Safety**

Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in individual investments and the overall portfolio. The objective will be to mitigate credit risk, interest rate risk and custodial risk.

##### **a. Credit Risk**

The City will minimize credit risk, which is the risk of loss of all or part of the investment due to the failure of the security issuer or backer, by:

- Limiting investments to the types of securities permitted under Wisconsin Statutes Chapter 66.0603 or 67.11.
- Approving by resolution the public depositories, financial institutions, or broker/dealers that are deemed appropriate for use under Wisconsin and Federal law.
- Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer will be minimized.

##### **b. Interest Rate Risk**

The City will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:

- Structuring the investment portfolio so that security maturities match cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Limiting the maximum maturity of any individual security to a period not to exceed 7 years and the average weighted maturity of the investment portfolio to a period not to exceed 3 years.

##### **c. Custodial Risk**

The City will minimize custodial risk, which is the risk that in the event of a financial institution failure, the City’s deposits may not be returned to it, by:

- Maintaining a list of public depositories, financial institutions, custodians and broker/dealers authorized to provide deposit and investment services. Depositories or financial institutions to be designated shall be evaluated by the Finance Director/Treasurer and recommended to the Common Council for approval.

## **2. Liquidity**

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands. Alternatively, a portion of any portfolio may be placed in money market mutual funds or local government investment pools authorized and permissible under Wisconsin statutes which offer same-day liquidity for short term funds.

## **3. Yield**

Investment portfolios shall be designed with the objective of attempting to attain a market rate of return taking into account investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. Securities shall be held until maturity with the following exceptions:

- A security with declining credit quality may be sold prior to maturity to minimize loss of principal.
- Selling a security and reinvesting the proceeds that would improve the quality, yield, or target duration in the portfolio may be undertaken.
- Unanticipated liquidity needs of the portfolio require that the security be sold.

## **4. Competitive Quotations**

With the exception of cash accounts, or investments purchased or managed by an investment advisor, all investments will be selected on the basis of competitive quotations as presented through current market conditions; at least two qualified institutions will be contacted each time an investment is placed.

# **II. STANDARDS OF CARE**

## **1. Prudence**

The standard of care to be used by investment officials shall be the “uniform prudent investor act” standard, which states “investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived” and shall be applied in the context of managing an overall portfolio.

Investment officers acting in accordance with written procedures and this Investment Policy and acting as a prudent investor shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely manner and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

## **2. Limitation of Liability**

Notwithstanding any other provision of law, the Finance Director (or other City employee in the absence of the Finance Director) who deposits public money in any authorized public depository, in compliance with Wisconsin statutes sec. 34.05 is, under the provisions of Wisconsin Statutes sec. 34.05, relieved of any liability for any loss of public monies which results from the failure of any public depository to repay the public depositor the full amount of its deposits, thus causing a loss as defined in Wisconsin Statutes sec. 34.01(2).



### **3. Ethics and Conflicts of Interest**

City officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business, in accordance with applicable laws. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Officers and employees shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the City.

### **4. Delegation of Authority**

Management and administrative responsibility for the investment program of the City is entrusted to the Finance Director under the directions of the City Council. Individuals authorized to engage in investment transactions on behalf of the City are the Finance Director, Assistant Finance Director(s), the City Manager or those individuals designated by the Finance Director, City Manager or City Council.

### **5. Authorized and Suitable Investments**

Authorized investments include any investment stipulated in Wisconsin statute 66.0603 (1m) or 67.11 where applicable.

- a) In accordance with Wisconsin statutes 34.01 (5) and 34.09 all Wisconsin banks, state or federal chartered, and financial institutions which are members of the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Administration (NCUA), as well as the Wisconsin local government pooled- investment fund, are authorized depositories.

The City of Oshkosh, with the adoption of this investment policy, will allow its Finance Director to place additional funds in excess of \$650,000 in any bank so named as a City depository if the depository provides a surety bond or collateralization of the time deposit or certificate of deposit. Additional unsecured deposits up to a maximum of \$2,500,000 may be placed in any depository rated in the two highest categories by the financial rating institution used by the City.

- b) Investments considered or defined as “derivatives” that do not carry a guarantee or insurance are prohibited.
- c) Where possible, preference may be given to local financial institutions for the betterment of the local economy or that of local entities within the State.

## **III. INTERNAL CONTROLS**

The Finance Director shall establish a system of internal controls designed to prevent losses of City funds arising from fraud, misrepresentation by third parties, unanticipated changes in financial markets, employee error or imprudent actions by employees and officers of the City.

Internal controls shall address:

- Separation of transaction authority from accounting and record keeping.
- Clear delegation of authority to subordinate staff members.
- Written confirmation of transactions for investments and wire transfers.
- Dual authorizations of wire transfers.
- Development of a wire transfer agreement with the lead bank and third-party custodian.

- Investment and interest earnings will be recorded in the City's accounting records based on generally accepted accounting principles (GAAP).
- A monthly summary of all investment transactions will be prepared by the Finance Director for review by the City Council.

#### **IV. COLLATERALIZATION**

Certificates of Deposit that exceed FDIC/NCUA insurance limits and/or coverage limits specified in Wisconsin statutes 34.08(1) (2) shall require collateral valued at a minimum of 102% of the principal and accrued interest. Conditions of the collateral arrangement will be detailed in a "Security Agreement" between the depository financial institution and the City. Collateral pledged to the City for this purpose will be held by a third-party custodian, in the City's name, and evidenced by a "Tri-Party" agreement between the depository financial institution, the City and the custodian. Evidence of ownership must be detailed in a safekeeping receipt supplied to the Finance Director. A letter of credit valued as stated above issued through the Federal Home Loan Bank of Chicago listing the City as beneficiary is acceptable. Collateral substitution(s) must be authorized by the City. The City may also request collateral, under the same conditions as stated above, for any deposits at any financial institution that exceed FDIC insurance limits.

#### **V. INVESTMENT PARAMETERS**

##### **Diversification**

Investments shall be diversified by:

- Limiting investments to avoid over concentration in securities from a specific issuer, industry or business sector, excluding U.S. Treasury obligations.
- Investing in securities with varying maturities.
- Continuously investing a portion of the investment portfolio in readily available funds such as local government investment pools, money market accounts or money market mutual funds permissible under state statute.

#### **VI. REPORTING**

The Finance Director shall present a monthly report on the investment program and investment activity to the City Council. The report shall include a management summary displaying the status of the investment portfolio and transactions made over the previous month. The management summary shall be prepared in a manner that will allow the City Council to determine if investment activities during the reporting period conform to this Investment Policy.

#### **VII. POOLING OF CASH**

Except where otherwise provided by the City Council, the Finance Director is authorized to pool the cash of the funds identified in this policy to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration where it is advantageous and prudent to do so. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

#### **VIII. ADOPTION AND APPROVAL**

By resolution, the Investment Policy shall be formally approved and adopted by the City Council and reviewed as needed but at least every three years.

#### **IX. LIST OF ATTACHMENTS**

The following documents, as applicable, are attached to this policy;

- List of authorized personnel
- List of authorized public depositories, financial institutions and broker/dealers
- Internal Controls
- Relevant Wisconsin statutes and local ordinances

Approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Authorized Personnel**

Julie M. Calmes, Director of Finance

Hailey Palmquist, Assistant Finance Director

Mark Rohloff, City Manager

**List of authorized public depositories, financial institutions and broker/dealers**

Associated Bank

Charles Schwab

Community First Credit Union

Ehlers Investment Partners

Local Government Investment Pool

Nicolet National Bank

Oshkosh Area Community Foundation

PMA Financial Network, LLC

U.S. Bank

Verve, a Credit Union

Wisconsin Investment Series Cooperative (WISC)

### **Internal Controls**

The Finance Director is responsible for establishing and maintaining an internal control structure that will be reviewed annually with the City of Oshkosh's independent auditor. The internal control structure shall be designed to ensure that the assets of the City of Oshkosh are protected from loss, theft or misuse and to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits require estimates and judgements by management.

The internal controls shall address the following points:

- Control of collusion.
- Separation of transaction authority from Finance and Accounting.
- Custodial safekeeping.
- Avoidance of physical delivery securities.
- Clear delegation of authority to subordinate staff members.
- Written confirmation of transactions for investment and wire transfers.
- Development of a wire transfer agreement with the lead bank and third party custodian.

### **Relevant Wisconsin statutes and local ordinances**

Wisconsin statute 66.0603 (1m)

Wisconsin statute 67.11 (2)

Wisconsin statutes 34.01 (2) (5) and 34.09

Wisconsin statutes 34.08 (1) (2)

# Policy for Special Assessments



CITY OF OSHKOSH

POLICY FOR SPECIAL ASSESSMENTS

***I. STREET CONSTRUCTION AND RECONSTRUCTION***

**A. GENERAL**

1. Assessments shall be levied according to the front foot dimensions of the abutting property to the improvement except as noted below. **(Res. #00-37)**

Assessments to be levied for non-residentially zoned property located along the US Highway 41 frontage road system shall be levied in accordance with a zone system. **(Res. #00-37)** The zone established shall be parallel with the proposed street improvement and include all property lying one-half the distance from the proposed improvement to a parallel street, up to a maximum of 500 feet from the proposed improvement. The assessment zones shall be divided into three (3) subzones; each of which would constitute one-third of the depth of the zone. The owners of the property in the first subzone which is closest to the improvement shall pay 50% of the cost per lineal foot. Owners of the property in the second subzone shall pay 30% of the cost per lineal foot. The owners of the property in the third subzone, the farthest from the improvement, shall pay 20% of the cost per lineal foot.

Assessments for cold mix overlay, regardless of zoning, shall be levied according to the front foot dimensions of the abutting property to the improvement. The assessment rate for all properties abutting the improvement shall be two-thirds of the actual cost for the cold mix overlay project, including those costs attributable to intersections, for a maximum width of 36 feet and a maximum thickness of 3 inches. **(Res. #98-249)**

2. The standard width for streets are: local street – 32 feet from face of curb to face of curb (f-f); collector street – 36 feet wide f-f; and arterial streets – 48 feet wide f-f. The Public Works Director shall recommend to the Oshkosh Board of Public Works any variation from the standard width. **(Res. #18-67)** The warrants required for a local street to be built greater than 32 feet wide shall be the following: average daily traffic of 1500 vehicles per day, or population density as indicated by a multi-family residential zoning designation, or an existing development that generates unusual traffic conditions such as a business/industrial establishment, a school, or a church. The Board of Public Works will approve the location of all local streets to be constructed greater than 32 feet wide f-f. **(Res. #99-256)**

3. The City will assume the entire cost of improving all intersections, utility replacement (including storm sewer installation) associated with the improvement. Any utility laterals installed to vacant properties shall be assessed at full cost to the abutting property. Active sanitary sewer and storm sewer laterals found necessary to be replaced during street construction shall have 50% of the cost assessed to the abutting property. **(Res. #13-109/Res #18-67)**
4. Assessments for property owned and used exclusively for residential uses shall be assessed as residential property, irrespective of zoning. Properties with one (1) or two (2) dwelling units will be treated as "Residential 1" properties. Properties with more than two (2) dwelling units, churches, schools, or any similarly-used tax-exempt property shall be treated as "Residential 2" properties. Assessments for property owned and used partially or totally for commercial or industrial purposes shall be assessed as "Other" property, irrespective of zoning. **(Res. #01-35/Res. #01-337/Res. #18-67)** See *Table 1*. **(Res. #18-67)**
5. If the driveway apron was unimproved prior to the street improvement or in such deteriorated condition as to require repair or replacement under the City's Rehabilitation Project, it shall be paved with a permanent surface in conjunction with the street improvement project. This cost will be assessed to the property owner. If the driveway apron was previously improved and in good condition, it shall be replaced with similar materials at no expense to the property owner. Costs related to an increase in size will be assessed. **(Res. #00-37/Res. #18-67)**
6. In street reconstruction projects with asphaltic resurfacing, the cost of replacement of curb and gutter, which is incidental to asphalt reconstruction, shall be assessed uniformly throughout the project.
7. Trees for Property Owners: When trees are removed for street improvement projects, and the adjacent property owner is not otherwise compensated for the tree removed, the City will provide, at property owner request and at City expense, as large a tree as is possible to safely and conveniently plant in the terrace or front yard of any property owner, to replace the tree removed during construction; provided the owner grants the City a cost-free temporary easement for planting the tree. **(Res. #21-176)**

The Department of Public Works will send a written notice to the affected property owners offering a tree replacement. Property owners must submit their requests in writing within 30 days of the date of the written notice.

The selection and placement of the replacement tree shall be made by the City Forester in consultation with the property owner, but the selection and placement shall be based on criteria used by the City Forester for terrace tree plantings throughout the City. **(Res. #00-208)**

## B. ASSESSMENTS

### 1. Rates (Res. #99-256 & Res. #00-37)

The assessable costs will be the portion of nominal construction costs in accordance with the following table: (Res. #99-393)

TABLE 1

<u>IMPROVEMENT</u>	<u>ZONING</u>								
	Residential 1 (All SR, DR, & TR)			Residential 2 (All MR, HR, & I)			Other (All other zoning)		
	%	Max Width	Max Thick	%	Max Width	Max Thick	%	Max Width	Max Thick
Grade & Gravel	100	36'*	---	100	40'*	---	100	52'*	---
Asphaltic Concrete Resurfacing (single pass resurfacing operation)	66 2/3	32'	2"*	66 2/3	36'	2"*	75	48'	2"*
Asphaltic Concrete Pavement Resurfacing with curb improvements and two passes	66 2/3	32'	3"	66 2/3	36'	3"	75	48'	5"
Concrete Pavement	66 2/3	32'	7"	66 2/3	36'	7"	75	48'	8"

\* (Res. #02-391)

\*\* (Res. #18-67)

- Assessments will be reduced proportionately for street improvements less than the maximum width. The assessment shall identify a cost for curb, or curb and gutter, repair or replacement, and regular pavement or resurfacing cost. For streets either paved or resurfaced less than the maximum width, the pavement or resurfacing portion of the assessment, exclusive of the curb or curb and gutter costs, shall be reduced proportionately to account for the lesser width of pavement.
- For any corner lots, the assessment rate would be reduced by 50% on the long side of the lot, as platted, up to a maximum deduction of 75 lineal feet. The short side of the lot, as platted, shall pay 100% of the assessment rate. For any lot which abuts two (2) streets and has a third side with frontage abutting an alley, the assessment rate shall be reduced by 50% on the alley side of the lot. For any lot which abuts three (3) streets, the assessment rates shall be reduced by 50% on the rear side street frontage. (Res. #08-300/Res. #21-302)
- For any lot 200 feet or less in depth, abutting two (2) streets, front and rear, the assessment rate shall be reduced 50% at the rear lot line.
- The assessable frontage for cul-de-sac lots should be calculated along the 25 foot setback line of each lot.

6. On corner lots where both sides have equal frontages, the side to be considered the short side is the side that has the street address for the property.
7. In the case of an extremely irregular shaped lot, assessments shall be based on the theoretical equivalent-sized lot. The assessable front footage of an extremely irregular-shaped lot shall be found by dividing the total square footage of the lot by the average lot depth in the area. As an alternative to the determination of the assessable front footage for non-residential property, the assessable front footage may be calculated by taking the front footage and subtracting any front footage which has less than a 75 foot depth measured perpendicularly from the front lot line. **(Res. #95-293)**
8. In cases of assessments to be levied for non-residentially zoned property located along the US Highway 41 frontage roads where only one (1) side of the improvement can be assessed, the assessable side shall be assessed at a rate of 150% of the normal rate. **(Res. 02-391)**
9. When state and/or federal aids are available, they will first be applied to the City's share of the cost of the project. Any remaining funds will be applied to reduce special assessments on a uniform basis.
10. For other than residentially-zoned property, the assessment rates shall be reduced by 66 2/3% in Subzone One, if the established grade of the portion of the street abutting the property is ten (10) or more feet different from the average grade of Subzone One. If the difference in the established grade and the average grade of Subzone One is between 5 and 10 feet, the assessment rate shall be reduced by 33 1/3%.
11. For paving in residential-zoned areas, the assessment rate for frontage shall not exceed one-third of the assessable construction cost divided by the total assessable frontage feet. For 32-feet wide f-f concrete pavement in residential-zoned areas during the 2002 construction season, the assessment rate shall not exceed \$47.60 per lineal foot. For the subsequent years, the assessment rate shall not be increased by more than 15% per year. **(Res. #99-393, Res. #00-37 & Res. #02-423)**
12. **(Repealed by Res. #02-423)**

## C. CALCULATION OF STREET ASSESSMENT RATE

1. After contracts are awarded for street construction in a construction year, the assessment rate for the following year shall be calculated by the Public Works Director of the City of Oshkosh. The Public Works Director shall determine the cost per lineal foot of a nominal 32 foot, 36 foot, and 48 foot pavement, respectively. The nominal cost shall include all costs associated with pavement removal, subgrading, subbase, base, and surface pavement. The cost of terrace restoration and sawing and jointing, as well as adjusting or reconstructing existing utility manhole and storm inlets, shall also be included in the nominal cost. The calculation shall presume a 7 inch thickness for 32 foot and 36 foot pavement and an 8 inch thickness for 48 foot pavement. **(Res. #99-256/Res. #18-67)**

Similar calculations shall be made by the Public Works Director for costs associated with asphalt concrete resurfacing, with or without curb and gutter improvements. Similar calculations shall be made regarding the actual cost of grading and graveling the streets.

2. The Public Works Director shall present the results of this study to the Oshkosh Board of Public Works, who shall review the report and make whatever modifications are necessary to ensure fairness in the calculation of the assessment rates. The Board of Public Works shall then certify to the Public Works Director the rates for each type of street construction and reconstruction to be used in the following year's street construction or reconstruction projects. The calculation shall be rounded off to the nearest \$0.10 per lineal foot.
3. All nominal rates for types of improvement shall include the factor of 12% of the construction cost, which shall be considered to reimburse the City for all engineering and administrative costs.

## II. SIDEWALKS

### A. GENERAL

1. Assessments will be levied according to the front foot dimensions of abutting property.
2. The assessment rate for all sidewalk construction will be determined on the basis of assessing 100% of the cost of the sidewalk installation.
3. All sidewalks in street intersections (beyond the property corner), which are considered crosswalks, shall be installed at a cost to the City.

### ***III. SANITARY SEWERS***

#### **A. GENERAL**

1. Assessments for new sanitary sewer mains shall be levied according to a square foot cost uniformly distributed over a zone, which shall be parallel with the proposed sewer improvement and include all property lying within 120 feet of the public right-of-way containing the sanitary sewer improvement.

#### **B. CALCULATION OF AREA ASSESSMENT RATE**

1. After contracts are awarded for sewer construction in a construction year, the assessment rate for the following year shall be calculated by the Public Works Director of the City of Oshkosh. The Public Works Director shall determine the cost per lineal foot of a nominal 8 inch sanitary sewer installed at a depth between 8 and 10 feet, backfilled with aggregate and one (1) standard manhole installed every 350 feet. The nominal cost shall not include any extra or special manholes or other sewer appurtenances and shall presume no removal of pavement is necessary for sewer installation. Additional calculations shall be done to calculate the cost to repair the street pavement. A separate calculation shall be done for asphalt pavement and concrete pavement. The calculation shall be based on an 8 foot wide trench for restoration and shall include any sawcutting, grading, and manhole adjustment typically required. Based on the location of the proposed sewer extension, the assessment rate will include the cost of the sewer and appropriate street patch, if necessary. **(Res. #18-67)**
2. The Public Works Director shall present the results of the study to the Oshkosh Board of Public Works who shall review the report and make whatever modifications are necessary to ensure fairness in the calculation of the assessment rate. The Board of Public Works shall then certify to the Public Works Director the rates for sewer construction to be used in the following year's sewer construction projects.
3. All nominal rates shall include a factor of 12% of the construction cost, which shall be considered to reimburse the City for all engineering and administrative costs.

#### **C. SANITARY SEWER LATERALS**

1. For sanitary sewers installed in streets, which necessitate the installation of lateral connections to the right-of-way line, the cost of the lateral shall be determined and shall be assessed at 100% of the estimated cost. **(Res. #13-109)**

2. For active sanitary sewer laterals which need to be reconstructed or re-lined on a City-funded paving project, the cost of the lateral shall be determined and shall be assessed at 50% of the cost, as explained in **Item I.A.3. (Res. #13-109/Res. #18-67)**
3. When the installation of lateral connections or reconstruction of active sanitary sewer laterals is not part of a City-funded paving construction project, the cost to remove and restore the pavement will be assessed to the benefitting property owner. **(Res. #13-109)**
4. The special assessment charge for the cost of the lateral will be averaged, by size, so each property owner pays the same special assessment charge, on a given project, for the same size service. As an exception, City-funded sanitary sewer lateral lining and partial lateral replacements, within the project limits, will be assessed for the actual lateral footage lined or relayed to the benefitting property. All special assessment charges shall include a factor of 12% of the construction cost, which shall be considered to reimburse the City of all engineering and administrative costs. **(Res. #13-109/Res. #18-67)**

#### ***IV. WATER MAIN INSTALLATION***

##### **A. GENERAL**

1. Assessments for new water mains shall be levied according to a square foot cost uniformly distributed over a zone, which shall be parallel with proposed water improvements and include all property lying within 120 feet of the public right-of-way containing the water main improvement.

## **B. CALCULATION OF AREA ASSESSMENT RATE**

1. After contracts are awarded for water construction in a construction year, the assessment rate for the following year shall be calculated by the Public Works Director of the City of Oshkosh. The Public Works Director shall determine the cost per lineal foot of a nominal 8 inch water main installed at a depth between 6 and 8 feet, backfilled with aggregate, and an 8 inch gate valve and a standard hydrant every 600 feet. The nominal cost will not include any other or special valves, hydrants, or other water utility appurtenances and shall presume no removal of pavement that is necessary for the water main installation. Additional calculations shall be done to calculate the cost to repair the street pavement. A separate calculation shall be done for asphalt pavement and concrete pavement. The calculation shall be based on an 8' wide trench for restoration and shall include any sawcutting and grading and manhole adjustment typically required. Based on the location of the proposed water main extension, the assessment rate will include the cost of the water main and appropriate street patch, if necessary. **(Res. 18-67)**
2. The Public Works Director shall present the results of the study to the Oshkosh Board of Public Works who shall review the report and make whatever modifications necessary to ensure the fairness in the calculation of the assessment rate. The Board of Public Works shall then certify to the Public Works Director the rates for water main construction to be used in the following year's water construction projects.
3. All nominal rates shall include a factor of 12% of the construction cost, which shall be considered to reimburse the City for all engineering and administrative costs.

## **C. WATER LATERALS**

1. For water mains installed in streets, which necessitate the installation of lateral connections to the right-of-way line, the cost of the lateral shall be determined and be assessed at 100% of the estimated cost. The special assessment charge for the cost of the lateral will be averaged, by size, so each property owner pays the same special assessment charge on a given project for the same size service. **(Res #18-67)**
2. For water laterals larger than 2 inches in size, relayed with a City project, 100% of the estimated cost shall be assessed. The special assessment charge for the cost of the lateral will be averaged, by size, so each property owner pays the same special assessment charge on a given project for the same size service. **(Res #18-67)**



3. When the installation of lateral connections is not part of a City-funded paving construction project, the cost to remove and restore the pavement will be assessed to the benefitting property owner. **(Res. #18-67)**
4. The special assessment charge for the cost of the lateral will be averaged, by size, so each property owner pays the same special assessment charge on a given project for the same size service. As an exception, partial lateral replacements, within the project limits, will be assessed for the actual lateral footage relayed to the benefitting property. All special assessment charges shall include a factor of 12% of the construction cost, which shall be considered to reimburse the City of all engineering and administrative costs. **(Res. #18-67)**

## **V. STORM SEWERS**

### **A. GENERAL**

1. The cost of installing storm sewers necessary for street drainage shall not be assessed to the abutting property owners.
2. Assessments for special storm sewer laterals installed for the specific purpose of providing storm sewer connections for clear water sump pumps from buildings to the public right-of-way shall be levied at a fixed dollar amount per assessable connection. **(Res. #00-37/Res. #18-67)**

### **B. CALCULATION OF AREA ASSESSMENT RATE**

1. Area assessment calculations are not used for storm sewer main installation. **(Res #18-67)**

### **C. WAIVER OF FEES**

1. All fees for plumbing permits necessary for the connection of sump pump drains to existing storm sewer systems, existing storm sewer laterals, and special ("mini") storm sewers are hereby waived for the property owner if the private property connection is completed in the same calendar year as the public contract construction of any storm sewer lateral to the property. These plumbing permit fees shall be paid by the City of Oshkosh Storm Water Utility. **(Res. #10-409 & #12-415/Res #18-67)**

### **D. STORM SEWER LATERALS**

1. The assessment rate for special purpose storm sewer laterals shall be \$750 per assessable connection, not to exceed 100% of the cost for the installation of the

special storm sewer lateral. **(Res. #00-37/Res. #12-49)** The rate shall be reduced to \$400 shall the property owner not need a lateral inlet due to connecting the special purpose storm sewer lateral to an underground connection to the clear water sump pump on the property. **(Res #18-67)**

2. For storm sewer installed in streets, which necessitate the installation of non-special purpose storm sewer lateral connections to the right-of-way line, the cost of the lateral shall be determined and shall be assessed at 100% of the estimated cost. **(Res. #11-123/Res #18-67)**
3. For any active storm sewer laterals which need to be reconstructed on a City-funded paving construction project, the cost of the lateral shall be determined as a storm sewer lateral, and not as a special storm sewer lateral, and shall be assessed at 50% of the cost as explained in **Item I.A.3. (Res #18-67)**
4. When the installation of non-special purpose storm sewer lateral connections or reconstruction of any active storm sewer laterals is not part of a City-funded paving construction project, the cost to remove and restore the pavement will be assessed to the benefitting property owner. **(Res #18-67)**
5. The special assessment charge for the cost of the non-special purpose storm sewer lateral will be averaged, by size, so each property owner pays the same special assessment charge on a given project for the same size service. As an exception, partial lateral replacements, within the project limits, will be assessed for the actual lateral footage relayed to the benefitting property. All special assessment charges shall include a factor of 12% of the construction cost, which shall be considered to reimburse the City of all engineering and administrative costs. **(Res #18-67)**

## **VI. GENERAL**

1. These, in no way, supersede the requirements, etc., in the Subdivision Ordinance, and are not applicable to subdivisions or new streets.
2. The Board of Public Works shall certify final special assessment calculations and submit to the City Clerk for invoicing the special assessment to impacted property owners within 24 months of the completion date as specified in the applicable construction contract. **(Res. #14-12)**

# Tax Incremental Financing Policy and Application

# **Tax Incremental Financing Policy and Application**

## **What is TIF?**

Tax Incremental Financing (TIF) is a special funding tool available to local municipalities that spurs economic development which otherwise would not occur. When a Tax Increment District (TID) is created property owners within the district continue to pay the same property tax rates as those outside the district. The difference is that tax collections, over and above the "base value" are placed into a special fund that is used to pay for project costs. Once all costs incurred by the creation of the TID are recouped by the additional tax increment created the TID is closed and the additional property taxes created are shared by all taxing entities. The use of TIF varies from project to project and district to district. In some cases, the City uses TIF to promote redevelopment of older parts of the community. In other cases the City uses TIF to create industrial parks through land acquisition and construction of infrastructure. Both cases, increased property tax collections are used to pay down debt service associated with project costs. The following outlines the City's policy regarding TIF.

## **Purpose:**

The purpose of this Policy is to articulate to existing or potential businesses the City of Oshkosh's desire to promote economic development that is consistent with the City's Comprehensive Plan and provides a community benefit that will ultimately be shared by all taxing entities (City, School, Technical College, County, and State) impacted through the establishment of Tax Increment District (TID).

Notwithstanding compliance with any or all of the guidelines herein, the provision of TIF assistance is a policy choice to be evaluated on a case-by-case basis by the Common Council. The burden of establishing the public value of TIF shall be placed upon the applicant and the application must substantially meet the criteria contained herein. City Administration reserves the right to bring any TIF proposal forward for Council consideration.

Meeting statutory requirements, policy guidelines or other criteria listed herein does not guarantee the provision of TIF financial assistance nor does the approval or denial of one project set precedent for approval or denial of another project.

## **TIF Authority:**

The authority and regulations for Tax Incremental Financing and the establishment of Tax Increment Districts are found in Wis. Stats. 66.1105. The City of Oshkosh reserves the right to be more restrictive than provided under the statutes.

# **Tax Incremental Financing Policy and Application**

## **Basic Provisions:**

As a matter of policy the City of Oshkosh will consider using Tax Incremental Financing to assist private development in those circumstances where the proposed private project shows a demonstrated financial gap and that the financial assistance request is the minimum necessary to make the project feasible. The developer is expected to have exhausted every other financial alternative(s) prior to requesting the use of TIF, including equity participation, other federal and state funds, bonds, tax credits, loans, etc.

It is the intent of the City to provide the minimum amount of Tax Incremental Financing assistance to make the project viable and not solely to broaden a developer's profit margin on the project. Prior to consideration of a Tax Incremental Financing request, the City will undertake (at the requestor's cost) an independent analysis of the project to ensure the request for assistance is valid.

In requesting TIF assistance, the developer must demonstrate that there will be a substantial and significant public benefit to the community by eliminating blight, strengthening the economic and employment base of the City, positively impacting surrounding neighborhoods, increasing property values and the tax base, creating new and retaining existing jobs, and implementing the Comprehensive Plan.

Each project and location is unique and therefore every proposal shall be evaluated on its individual merit, including its potential impact on city service levels, its overall contribution to the economy and its consistency with the Comprehensive Plan, Strategic Plan or other community planning documents. Each project must demonstrate probability of financial success.

### **"BUT FOR" TIF**

The fundamental principle and that which the City must determine through information provided by the developer is that the project would not occur "but for" the assistance provided through Tax Incremental Financing. The burden is on the developer to make this case to the City and not the City to make this case for the developer. Should this "but for" determination not be made, Tax Incremental Financing for the project cannot move forward.

## **TIF Objectives:**

The City will consider utilizing Tax Incremental Financing to meet the following basic objectives:

1. Stimulate and continued revitalization of the central city and downtown area by:
  - a. Improving infrastructure;
  - b. Creating a variety of housing opportunities to increase the number of downtown residents;
  - c. Preventing or eliminating slums and blighting conditions;
  - d. Constructing mixed-use developments;
  - e. Attracting desirable businesses and retaining existing businesses.
  - f. Encouraging development projects that enhance the streetscape and pedestrian experience and improve the vitality of the downtown area by adding interest and activity on the first floor of mixed - use buildings.
2. Promote efficient usage of land through redevelopment of blighted areas.
3. Strengthen the economic base of the City and support Economic Development.
4. Stabilize and upgrade targeted neighborhoods.
5. Create and retain family supporting jobs in the City.
6. Increase property values and tax revenues.
7. Leveraging the maximum amount of non-city funds into a development and back into the community.

# **Tax Incremental Financing Policy and Application**

## **What Development is Eligible?**

The type of development that the City will consider TIF funding includes:

1. Business development (attraction, retention, expansion). TIF assistance will be evaluated on its impact on existing local markets.
2. Mixed-use developments that creatively integrate commercial and retail projects into a residential development.
3. Revitalization of historically significant or deteriorated buildings.
4. Projects that promote central city office and retail development.
5. Projects that promote neighborhood stabilization or revitalization.
6. Projects that promote industrial development.
7. Projects consistent with approved TIF Project Plans.
8. Projects that involve environmental clean-up, removal of slum and blighting conditions.
9. Projects that contribute to the implementation of other public policies, as adopted by the city in its strategic plans such as promotion of high quality architectural design, energy conservation (i.e. LEED, Energy Star, etc), green infrastructure, etc.

## **What Development is Ineligible?**

The City will not favor use of TIF funding to help support the following types of development.

1. Speculative office development without one or more anchor tenants.
2. Relocation of offices, retail and/or commercial uses for purposes other than retaining or substantially expanding the business.
3. Office and retail development outside of the central city unless part of a city owned business or industrial park.
4. Stand alone residential development projects unless limited by site and environmental conditions beyond which make the project financially infeasible.
5. Projects not consistent with the Comprehensive Plan.

# **Tax Incremental Financing Policy and Application**

## **Eligible Costs:**

TIF eligible expenditures are defined by Section 66.1105(2)(e) of Wisconsin Statutes, which the City of Oshkosh may further limit on a project by project basis. The following are typical eligible costs.

1. Capital costs, including actual costs of:
  - a. Construction of public works or improvements;
  - b. Construction of new buildings, structures, and fixtures;
  - c. Demolition, alteration, rehabilitation, repair or reconstruction of existing buildings, structures and fixtures, other than historic buildings and structures.
  - d. Acquisition of equipment to service the district;
  - e. Restoration of soil or groundwater affected by environmental pollution; and
  - f. Clearing and grading of land.
2. Real property assembly costs.
3. Professional service costs (planning, architectural, engineering, and legal).
4. Relocation costs.
5. Environmental remediation.
6. Organizational costs (environmental and other studies, publication and notification costs).
7. Development Incentives in the form of loans or grants.

## **Criteria for TIF Assistance:**

All of the following financial criteria must be met in order to be considered for TIF assistance.

1. **Equity Requirement.** Developers must provide a minimum 15% equity of total project costs. Projects that exceed the 15% equity requirement will be looked upon more favorably by the City. Equity is defined as cash or un-leveraged value in land or prepaid costs attributable to the project. TIF shall not be used to supplant cash equity.
2. **Maximum Increment Use.** For loans, no more than 75% of the net present value of the tax increment generated by a private development shall be made available to the project. For "pay-go" supported projects up to 90% of the generated annual tax increment can be made available if a financial need is demonstrated and there are no other public infrastructure projects planned in the district.
3. **Payback Period.** Payback period for loans will match the amortization period but in no case will exceed the statutory life of the district. Preference will be given to projects with payback periods of 10 years or under.
4. **TIF Cap.** The total amount of TIF assistance should not exceed 25% of total project costs. This limitation may be waived if the project involves redevelopment of existing structures or the assembly and clearance of land upon which existing structures are located.
5. **Self-Supporting Projects.** Each project requesting TIF assistance should generate sufficient tax increment to cover the requested TIF assistance and a portion of any public infrastructure costs within the district.

# **Tax Incremental Financing Policy and Application**

*Criteria for TIF Assistance continued from previous page...*

6. No increment from other private development projects within the district may be used to supplement another project's inability to generate sufficient tax increment to cover project costs.
7. Land Assembly Cap. TIF assistance for land/property assembly costs will not be provided in an amount exceeding 10% of the fair market value of the land. The fair market value will be determined by an independent appraiser contracted by the City with cost of appraisal paid for by developer.
8. Internal Rate of Return. The amount of assistance provided to a developer will be limited to the amount necessary to provide the developer a reasonable rate of return on investment in the project and the subject site. A developer's return on equity, return on cost or internal rate of return will be based on current market conditions as determined by the City or City's financial advisor. In no case shall the internal rate of return exceed 20%.
9. Taxable Increase. The project should result in an increase in taxable valuation of at least 20% upon project completion.

## **Policy Criteria:**

In addition to meeting all of the above financial criteria, projects must accumulate at least 50 points based on an established scoring matrix that will become part of the application packet. Points can range from 0 to the maximum shown in each category. The City has established 3 different scoring matrixes:

- Blight/Redevelopment
- Economic Development/Industrial or Business Park
- Mixed Use

Staff will determine the type of scoring matrix that is most applicable to the applicant's project. Applicants are expected to self-score their projects and to provide supporting documentation for each of the scoring categories. Prior to filling out the scoring matrix please contact staff for assistance.



# **Tax Incremental Financing Policy and Application**

## **Process of TIF Approval:**

Tax Increment District creation requires following statutory prescribed timelines that include notification to the overlying taxing jurisdictions (i.e. public school district, technical college, county, city), property owners within the district, and published meeting notification in the newspaper. Ultimately the City's Plan Commission, Common Council, and Joint Review Board all must approve the TID creation request.

The TID creation process generally takes between 90-120 days and depending on the complexity of the request and information required may take additional time. The creation process involves extensive review by City staff, outside consultants, and the Common Council. Applicants will be required to make a presentation to Council prior to the City moving forward with creation of the Project Plan and Development Agreement.

### **TID Process Timeline – Example using May 1st**

May 1, Staff receives TIF application, distributed to TIF Team (Comm Dev, Public Works, Attorney, Finance). Council is forwarded TIF application.

May 9, Applicant presents their proposal during Council meeting for TIF and Development Agreement. Council goes into closed session to consider proposal and/or determine other information required prior to acting on proposal.

May 10, City provides Ehlers with TID application and receives direction from Council.

May 30, Ehlers will prepare & provide the City with feasibility analysis report, options, and/or draft TIF project plan document. Council is forwarded draft # 1 TIF Project Plan.

May 30, City mails public hearing notices.

June 12, Ehlers provides Council & City Staff with revised draft #2 TIF Project Plan.

June 14, City posts Joint Review Board (JRB) & Public Hearing/ Plan Commission meeting agendas.

June 14, Plan Commission meeting notice & draft to City Attorney for Attorney Legal Opinion. TIF team begins drafting Development Agreement.

June 6-9, First publication of Public Hearing & JRB meeting notice.

June 12, Second publication of Public Hearing & JRB meeting notice.

June 20, Plan Commission approval of TID boundary plan.

June 22, Ehlers provides Council & City staff with revised draft #3 TIF Project Plan.

June 29, City provides Ehlers with the signed legal opinion approving the TIF Project Plan.

July 3, Ehlers provides Council & City staff with draft #4 TIF Project Plan.

July 7, City posts the Council meeting agenda, as well as distributes the resolution & Project Plan for consideration.

July 11, Common Council reviews Plan & takes action on creation resolution approving TIF District Project Plan and boundaries. Council reviews draft Development Agreement – closed session if needed.

July 12, City mails notice & required attachments to JRB of the final meeting, along with the agenda.

July 14, Publication of JRB meeting notice.

July 19 Joint Review board consideration.

July 25 Council takes action on Development Agreement.

September, City will notify the DOR within 60 days of approval that the TIF creation took place.

September to October, City will gather, prepare, and submit state forms & all required documents to state, once the 2017 assessed parcel values available (following the DOR).

# **Tax Incremental Financing Policy and Application**

## **Structure for Tax Incremental Financing Assistance:**

1. Tax Incremental Financing assistance will be provided by the City on a "pay-go" note method or via bond proceeds. Requests for up-front financing may be considered on a case-by-case basis if increment generation is sufficient to meet initial financing and debt service costs and is not the first dollars spent on a project.
2. For "pay-go" structured projects, the project owner shall agree to pay all other outstanding City of Oshkosh property tax bills prior to disbursement of any pay-go payments by the City.
3. No Mortgage Guarantees. The City will not provide mortgage guarantees.
4. Personal Guarantee. The City will require a personal guaranty for receiving up front TIF assistance. Amount and form shall be acceptable to the City.
5. The property owner shall agree not to protest to the Board of Review or Circuit Court the Assessor's determination of the property value for the properties for which the grant is requested.
6. The City will retain a maximum of 10% of any tax increment received from the project to reimburse for administrative costs. Until such time as the project generates positive tax increment, the City will charge an administrative fee to the developer to partially offset the cost of record keeping, report preparation, and accounting.
7. When the project is intended as a for-sale development (i.e., office, retail or residential condominiums), the developer must retain ownership of the overall project until final completion; provided, however, that individual condominium units may be sold as they are completed. For all other projects, the developer must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management and to initiate payment of taxes based on the increased project value.
8. Projects receiving assistance shall be subject to a "look back" provision. The look back mandates a developer to provide the City or its financial advisor with evidence of its annualized cumulative internal rate of return on the investment (IRR) at specified periods of time after project completion. The IRR shall be calculated with equity, revenues, and expenses in accord with generally accepted accounting principles. If the financial records indicate that the developer has received a higher return on equity or internal rate of return than originally contemplated at the time of development agreement approval, future TIF contributions may be adjusted or the developer may be required to pay the City back for previous contributions.
9. Exceptions to TIF Policy. The City reserves the right to amend, modify, or withdraw these policies or require additional statements or information as deemed necessary. Any party requesting waiver from the guidelines found herein or on any other forms provided for TIF assistance may do so on forms provided by the City with the burden being on the requestor to demonstrate that the exception to these policies is in the best interests of the City.

# Tax Incremental Financing Policy and Application

Please complete and submit the following information to the City of Oshkosh for a more detailed review of the feasibility of your request for Tax Incremental Financing (TIF) assistance. The application is comprised of five parts:

1. Applicant Information
2. Project/Property Information
3. Project Narrative
4. Project Budget/Financial Information
5. Buyer Certification and Acknowledgement.

Where there is not enough space for your response or additional information is requested, please use an attachment. Use attachments only when necessary and to provide clarifying or additional information.

The Department of Community Development (DCD) reviews all applications for TIF assistance. Failure to provide all required information in a complete and accurate manner could delay processing of your application and DCD reserves the right to reject or halt processing the application for incomplete submittals.

For further information please refer to the "City of Oshkosh Tax Incremental Financing Policy" document or call the Economic Development Division at 920.235.5055

## Applicant Information:

Legal Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Primary Contact #: \_\_\_\_\_ Cell #: \_\_\_\_\_

E-mail: \_\_\_\_\_ FAX#: \_\_\_\_\_

Attorney: \_\_\_\_\_

Legal Entity: \_\_\_\_\_ Individual(s) \_\_\_\_\_ Joint Tenants \_\_\_\_\_ Tenants in Common  
\_\_\_\_\_ Corporation \_\_\_\_\_ LLC Partnership \_\_\_\_\_ Other

If not a Wisconsin corporation/partnership/LLC, state where organized:

Will a new entity be created for ownership? \_\_\_\_\_ Yes \_\_\_\_\_ No

Principals of existing or proposed corporation/partnership/LLC and extent of ownership interest.

Name:	Address:	Title:	Interest:
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_____	_____	_____	_____
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_____	_____	_____	_____
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_____	_____	_____	_____
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_____	_____	_____	_____
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Is any owner, member, stockholder, partner, officer or director of any previously identified entities, or any member of the immediate family of any such person, an employee of the City of Oshkosh? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, give the name and relationship of the employee: \_\_\_\_\_

Have any of the applicants (including the principals of the corporation/partnership/LLC) ever been charged or convicted of a misdemeanor or felony? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please furnish details: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Tax Incremental Financing Policy and Application

*\*Please attach additional pages if necessary*

Overall Project Summary and Objectives: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Current and Proposed Uses: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of End Users: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Property Summary:

Parcel/Land Area: \_\_\_\_\_ SF  
Building Area: \_\_\_\_\_ SF  
# of Dwelling Units: \_\_\_\_\_  
# of Stories: \_\_\_\_\_  
# of Parking Spaces: \_\_\_\_\_

Describe any zoning changes that will be needed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Identify any other approvals, permits or licenses (i.e. Liquor License, Health Department, etc):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe briefly what the project will do for the property and neighborhood:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Tax Incremental Financing Policy and Application

## Project Timetable

## Date

Final Plan/Specification Preparation: \_\_\_\_\_  
Bidding and Contracting \_\_\_\_\_  
Firm Financing Approval: \_\_\_\_\_  
Construction/Rehabilitation: \_\_\_\_\_  
Landscaping/Site Work: \_\_\_\_\_  
Occupancy/Lease Up: \_\_\_\_\_

## Development Team

Developer: \_\_\_\_\_  
Architect: \_\_\_\_\_  
Surveyor: \_\_\_\_\_  
Contractor: \_\_\_\_\_  
Other Members: \_\_\_\_\_  
Describe Team expertise and experience in developing similar projects:

Other current Team projects in development:

Financial ability of the applicant to complete the project:

History of use of other city or government financial incentives:

## Professional Studies

**Market Studies:** Applications for commercial and residential projects may at the option of the city be required to include a comprehensive market study. The market study should identify target markets, analysis of competition, demographics, market rents, letters of intent/interest from prospective tenants, or for housing developments, sale prices or rental rates of comparable properties.

**Appraisal:** All projects that involve the transfer of land may at the option of the city include a recent appraisal. Projects that include land as a form of equity or collateral must also submit a recent appraisal. The appraisal must value the property "as is", and the impact on value must be considered for such items as demolition, environmental remediation, relocation of utilities, lease buy-outs, and other work necessary to make the site developable. The property must be valued assuming that the highest and best use is the proposed use.

# Tax Incremental Financing Policy and Application

## Project Budget/Financial Information:

### Sources and Uses of Funds

Identify the sources of funds used to finance the project. Typical sources include equity, lender financing, mezzanine financing, government financing, other anticipated types of public assistance, and any other types or methods of financing.

Uses of Funds	Amount (\$)	\$ per SF of Building Area
Land Acquisition:	_____	_____
Demolition:	_____	_____
Environmental Remediation:	_____	_____
Site Clearance and Preparation:	_____	_____
Soft Costs/ Fees:	_____	_____
Soft Cost Contingency:	_____	_____
Hard Construction Costs:	_____	_____
Total Project Costs:	_____	_____

### Sources of Funds

### % of total project costs

#### Equity

Developer Equity:	\$ _____	_____ %
Other Equity: (_____)	\$ _____	_____ %
Total Equity:	\$ _____	_____ %

#### Loans

		Rate	Term	
Construction Financing:	\$ _____	_____ %	_____ mos.	_____ %
Permanent Financing:	\$ _____	_____ %	_____ yrs.	_____ %

<b>TIF Assistance</b>	\$ _____	_____ %
Other: (_____)	\$ _____	_____ %
<b>Total Sources of Funds</b>	\$ _____	100%

### Financing

Source	Amount	Terms: Years/Interest	Contact Information
Equity:	_____		
Loans	1: _____		
	2: _____		
	3: _____		
	4: _____		

# Tax Incremental Financing Policy and Application

**Detailed Pro Forma** *(must correspond to line items for Uses of Funds on previous page)*

**Land Acquisition** \$ \_\_\_\_\_  
**Demolition** \$ \_\_\_\_\_

**Site Clearance and Preparation**

Infrastructure \$ \_\_\_\_\_  
 Utilities/removal \$ \_\_\_\_\_  
 Utilities/relocation \$ \_\_\_\_\_  
 Utilities/installation \$ \_\_\_\_\_  
 Hazardous Materials Removal \$ \_\_\_\_\_  
 Other(\_\_\_\_\_) \$ \_\_\_\_\_

**Total Site Clearance and Preparation**

**Soft Costs/Fees**

Project Management (\_\_\_\_\_% ) \$ \_\_\_\_\_  
 General Contractor (\_\_\_\_\_% ) \$ \_\_\_\_\_  
 Architect/Engineer (\_\_\_\_\_% ) \$ \_\_\_\_\_  
 Developer Fee (\_\_\_\_\_% ) \$ \_\_\_\_\_  
 Appraisal \$ \_\_\_\_\_  
 Soil Testing \$ \_\_\_\_\_  
 Market Study \$ \_\_\_\_\_  
 Legal/Accounting \$ \_\_\_\_\_  
 Insurance \$ \_\_\_\_\_  
 Title/Recording/Transfer \$ \_\_\_\_\_  
 Building Permit \$ \_\_\_\_\_  
 Mortgage Fees \$ \_\_\_\_\_  
 Construction Interest \$ \_\_\_\_\_  
 Commissions \$ \_\_\_\_\_  
 Marketing \$ \_\_\_\_\_  
 Real Estate Taxes \$ \_\_\_\_\_  
 Other Taxes \$ \_\_\_\_\_  
 Other (\_\_\_\_\_) \$ \_\_\_\_\_  
 Other (\_\_\_\_\_) \$ \_\_\_\_\_

**Sub-total Soft Costs/Fees** \$ \_\_\_\_\_  
 Soft Cost Contingency \$ \_\_\_\_\_

# Tax Incremental Financing Policy and Application

## Pro Forma Income and Expense Schedule

Applicants whose projects involve the rental of commercial, retail, industrial, or living units must submit project pro formas that identify income and expense projections on an annual basis for a minimum eleven-year period. If you expect a reversion of the asset after a holding period please include that in your pro forma as well. Please check with city staff to determine the time period needed for the pro forma. Identify all assumptions (such as absorption, vacancies, debt service, operational costs, etc.) that serve as the basis for the pro formas. **Two sets of pro formas are to be submitted. The first set should show the project without TIF assistance and the second set with TIF assistance.**

For owner-occupied industrial and commercial projects, detailed financial information must be presented that supports the need for financial assistance (see below).

## Analysis of Financial Need

Each application must include financial analyses that demonstrate the need for TIF assistance. Two analyses must be submitted: one WITHOUT TIF assistance and one WITH TIF assistance. The applicant must indicate the minimum return or profit the applicant needs to proceed with the project and rationale for this minimum return or profit. The analyses will necessarily differ according to the type of project that is being developed.

**Rental Property:** For projects involving rental of space by the developer to tenants (tenants include offices, retail stores, industrial companies, and households), an internal rate of return on equity must be computed with and without TIF assistance based on the pro forma of income and expense prepared for the **Income and Expense Schedule** below. The reversion at the end of the ten-year holding period must be based on the capitalized 11th year net operating income. The reversionary value is then added to the 10th year cash flow before discounting to present value. State all assumptions to the analyses.

**For Sale Residential:** Show profit as a percent of project cost (minus developer fee and overhead and minus sales commissions and closing costs, which should be subtracted from gross sales revenue). Other measure of profitability may be submitted, such as profit as a percent of sales revenue.

**Mixed Use Commercial/For-Sale Residential:** Provide either separate analyses for each component of the project or include in the revenue sources for the for-sale portion, the sale value of the commercial component based on the net operating income of the commercial space at stabilization. Indicate how the sale value was derived.

**Owner-Occupied Commercial:** For projects, such as "big-box" retail projects, provide copies of the analyses that the company needs to meet or exceed the company's minimum investment threshold (s) for proceeding with the project.

**Competitive Projects:** In instances where the City is competing with other jurisdictions for the project (e.g., corporate headquarters, new manufacturing plant), present detailed analyses that demonstrate the capital and operating cost differential between the proposed location(s) in Oshkosh and locations that are seriously being considered by the applicant.



# Tax Incremental Financing Policy and Application

## Supplemental Information:

### Revenue Projections - Rental Project

		Year 1	Year 2	>>Year11
Income	rent per sf (or avg.)	\$ _____	\$ _____	\$ _____
Commercial Rent		\$ _____	\$ _____	\$ _____
Commercial Expense Recoveries		\$ _____	\$ _____	\$ _____
Residential Rent		\$ _____	\$ _____	\$ _____
Other Revenue: (_____)		\$ _____	\$ _____	\$ _____

### Gross Potential Income

		\$ _____	\$ _____	\$ _____
Commercial Vacancy	_____ %	\$ _____	\$ _____	\$ _____
Residential Vacancy	_____ %	\$ _____	\$ _____	\$ _____

### Effective Gross Income (EGI)

\$ _____	\$ _____	\$ _____
----------	----------	----------

### Expenses

Maintenance & Repairs	\$ _____	\$ _____	\$ _____
Real Estate Taxes	\$ _____	\$ _____	\$ _____
Insurance	\$ _____	\$ _____	\$ _____
Management Fee	\$ _____	\$ _____	\$ _____
Professional Fees	\$ _____	\$ _____	\$ _____
Other Expense(_____)	\$ _____	\$ _____	\$ _____
Other Expense(_____)	\$ _____	\$ _____	\$ _____

### Total Expenses

\$ _____	\$ _____	\$ _____
----------	----------	----------

### Net Operating Income (NOI)

\$ _____	\$ _____	\$ _____
----------	----------	----------

Capital Expenses (reserves, tenant improvements, commissions)

\$ _____	\$ _____	\$ _____
----------	----------	----------

Debt Service

\$ _____	\$ _____	\$ _____
----------	----------	----------

### Net Cash Flow (before depreciation)

\$ _____	\$ _____	\$ _____
----------	----------	----------

### Reversion in Year 10

Year 11 NOI before Debt & Capital Expenses	\$ _____
Capitalization Rate	_____ %
Gross Reversion	\$ _____

# Tax Incremental Financing Policy and Application

## Supplemental Information:

### Revenue Projects - For-Sale Project

#### Gross Sales Revenue

Housing Units	Unit Type*	Number	Price/Unit
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____

#### Total Housing Sales:

*\*affordable units if any*

#### Housing Unit Upgrades:

\$ \_\_\_\_\_

\$ \_\_\_\_\_

#### Commercial Space

Unit Type	Size-sf	Price per sf
		\$ _____
		\$ _____
		\$ _____

#### Total Commercial Sales

\$ \_\_\_\_\_

#### Total Gross Sales Revenue

\$ \_\_\_\_\_

#### Cost of Sales

Commissions	_____ %	\$ _____
Marketing	_____ %	\$ _____
Closing	_____ %	\$ _____
Other Costs ( _____ )	_____ %	\$ _____

#### Total Costs of Sales

\_\_\_\_\_ %

\$ \_\_\_\_\_

#### Net Sales Revenue

\$ \_\_\_\_\_

# **Tax Incremental Financing Policy and Application**

## **Summary Letter**

Provide a summary of the project in the form of a letter addressed to the City Manager. The letter should not exceed two (2) pages in length and should include only the following essential information about the project:

- Description of site or building
- Current and proposed uses
- Description of end users
- Project start and end dates
- Profitability
- Description of public benefits, including job creation.
- Overview of private-sector financing
- Amount of TIF assistance requested
- Summary of increment projections
- Name of developer and owner
- Total development costs
- Statement regarding why TIF is essential and why the "but for" provision will be met.

Note: In the "but for" discussion you must clearly describe why TIF is needed to help this project and why the project will not/cannot proceed without such support. Failure to clearly provide the "but for" explanation will delay action on your application.

## **Project Narrative**

Provide an in-depth overview of the project in narrative format. The narrative must include a description of the following aspects of the project:

- Current condition of the site and historical overview that includes the size and condition of any existing structures, environmental conditions, and past uses of the site.
- Proposed use(s) of project (e.g. industrial, commercial, retail, office, residential for sale or for rental, senior housing, etc.)
- Construction information about the project including: size of any existing structure to be demolished or rehabbed; size of any new construction: types of construction materials (structural and finish); delineation of square foot allocation by use; total number and individual square footage of residential units: type of residential units (e.g. for-sale, rental, condominium, single-family, etc.); number of affordable residential units; number and type of parking spaces; and construction phasing.
- If in an existing TID or redevelopment area, confirm that this project is consistent with the goals and objectives in the Project or Redevelopment Plan.
- A summary of the proposed "green" features to be included in the project. All projects that receive TIF assistance are encouraged to include environmentally friendly features.

# Tax Incremental Financing Policy and Application

## Filing Requirements, Notes, Certification and Agreement:

### Filing Requirements

You must provide all of the following items with your signed application:

1. **Fee:** An application fee of 1% of the requested TIF assistance or \$10,000, whichever is greater. This fee is to cover City costs associated with evaluating the TIF application **and does not cover the use of outside consultants, which if required will be paid for by the applicant.** Make your check payable to the City of Oshkosh.
2. **Site Maps:** Provide a map that shows the location of the site. Also provide a map that focuses on the project and its immediate surroundings. Both maps should be no larger than 11x17 inches. Larger maps will be required for projects presented to the Plan Commission, Redevelopment Authority, or Common Council.
3. **Project Renderings:** Provide preliminary architectural drawings, plans and renderings for the project. These drawings should be no larger than 11x17 inches. Larger maps will be required for projects presented to the Plan Commission, Redevelopment Authority, or Common Council.

### Notes

- The City retains an administrative fee of 5% of the annual tax increment revenue.
- If the project requires planning and zoning approvals, you must make these applications concurrent with this request.

### Agreement

I, by signing this application, agree to the following:

1. I have read and will abide by all the requirements of the City for Tax Incremental Financing.
2. The information submitted is correct.
3. I agree to pay all costs involved in developing Project Plan or Development Agreement. These costs may include, but not be limited to, bond counsel, outside legal assistance, outside financial assistance, planning, engineering, etc. and all costs involved in the issuance of the bonds or loans to finance the project.
4. I understand that the City reserves the right to deny final approval, regardless of preliminary approval or the degree of construction completed before application for final approval.
5. The undersigned authorizes the City of Oshkosh to check credit references and verify financial and other information.
6. The undersigned also agrees to provide any additional information as may be requested by the City after filing of this application.

Applicant Name \_\_\_\_\_ Date \_\_\_\_\_

# Tax Incremental Financing Closure Review Process and Policy

## Tax Increment Finance (TIF) District

### TIF Closure Review Process/Policy

August 27, 2024

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Tax Increment Finance (TIF) Districts have mandatory closing dates, based on the type of district. In general, the TIF District must first pay off project costs including interest, administration, financing, legal etc. The City depends on a TIF District paying off all of its outstanding obligations; otherwise the City is required to assume the remaining TIF obligations.

The following options are listed in chronological order based on the time of action needed prior to terminating a TIF District. Each TIF District will go through the following process.

All of these options can be used in tandem with one another. The dollar amount for each activity and the timing for each activity would depend on the individual TIF District's financial performance.

- A. Create a TIF donor/donee with an amended Project Plan.** A well-performing TIF district can be used as a donor TIF for an under-performing TIF(s). This action requires Joint Review Board approval and has been done in the past in the City. This choice can be made in any year up to the termination of the TIF District.
- B. Fund Affordable Housing.** One additional year of tax increment may be collected in a TIF District if the funds will be used for affordable housing – the 1-year extension of the District would be a City Council decision. This choice can only be made in the year prior to the closure of the TIF District.

At the end of a TIF District's life, if the District has remaining funds upon termination of the TIF District, the funds shall be distributed to the public entities that are entitled to them in accordance with Wisconsin Statutes. The funds distributed to the City of Oshkosh shall be used as follows:

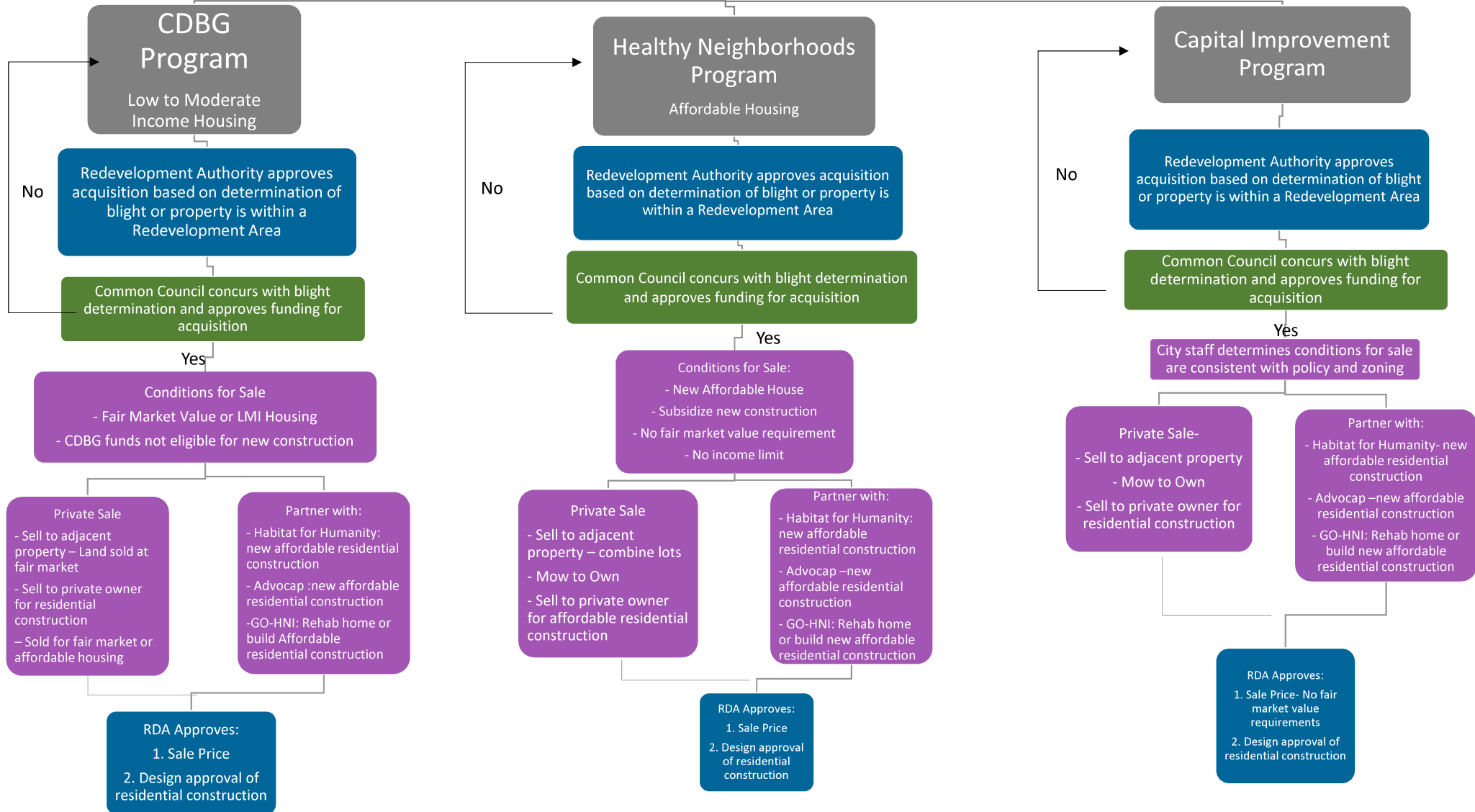
- C. Use cash balance in TIF account for future economic development activities including:**
  - 1. Create/fund a reserve account to help pay off debts of under-performing TIF districts.
    - a. Annually review the reserve account balance and the under-performing TIF districts to determine if the balance is sufficient. The reserve account should have a maximum of one and a half times the under-performing TIF districts negative fund balance.
  - 2. Other economic development activities such as housing or development initiatives. Estimated cost to be determined by TID cash balances in the future.



# Land Acquisition and Disposition Policy

Council Approved: October 8, 2019

# City Residential Land Acquisition and Sale Process



Redevelopment Authority

Common Council

Staff



## **Residential Land Acquisition and Sales Process – Community Development Block Grant (CDBG) Purchase**

The RDA has jurisdiction over spot-blighted properties and properties within redevelopment districts.

The purpose of this policy is to establish a transparent, accountable and effective residential land sales process that is consistent with state and federal requirements. The RDA reserves the right to deviate from this process when in the opinion of the RDA it is in the best interests of the City.

**Actions Required:** The RDA first makes determinations related to land acquisition and sales transactions for spot-blighted properties and properties within redevelopment districts, including but not limited to entering into options and accepting offers. The RDA and Council share responsibility for approval.

**Land Acquisition.** The City Council adopts a Redevelopment Plan or designates a blighted property in order for the RDA to acquire a blighted parcel. The RDA acquires and holds the title to the parcel.

**Determination whether to offer land for sale/redevelopment.** The RDA determines if land will be made available for sale or redevelopment and may consider all relevant information including but not limited to the following factors - any Redevelopment Plan, other City plans, environmental assessment and remediation needs, building demolition requirements, and potential combination with other parcels in the future. The RDA may determine that the land should be banked until a future date, or may determine that the land should be made available for more immediate redevelopment. If the land is made available for sale, then the following general process shall apply.

### **Conditions for Sale**

CDBG rules require that the land be sold for Fair Market Value or to a Low to Moderate Income Household (based on household income by household size)

## **Marketing – Private Sales**

The RDA determines the type of marketing to be used for selling the land. Staff shall place a “for sale” sign on the land. Staff shall list the available land on free or low-cost websites.

## **Marketing - Affordable Housing Partners**

The RDA may also enter into an agreement with an affordable housing partner for the development of a residential project on the property, either a new construction or a rehabilitation of the existing structure.

**Review and Approval of the Sales Price and Building Design** The RDA shall review offers received based on signs, websites, and other common means on a first-come, first-served basis. The RDA may grant Options on land as circumstances dictate. The RDA may also review the design of any structures proposed for the land as part of their deliberation

**Public Notice:** RDA and City Council agendas, packets and minutes are posted to the City’s website. Closed sessions are noticed as required by Wisconsin State Statutes.

## **Residential Land Acquisition and Sales Process – Healthy Neighborhoods Initiative (HNI) Purchase**

The RDA has jurisdiction over spot-blighted properties and properties within redevelopment districts.

The purpose of this policy is to establish a transparent, accountable and effective residential land sales process that is consistent with state and federal requirements. The RDA reserves the right to deviate from this process when in the opinion of the RDA it is in the best interests of the City.

**Actions Required:** The RDA first makes determinations related to land acquisition and sales transactions for spot-blighted properties and properties within redevelopment districts, including but not limited to entering into options and accepting offers. The RDA and Council share responsibility for approval.

**Land Acquisition.** The City Council adopts a Redevelopment Plan or designates a blighted property in order for the RDA to acquire a blighted parcel. The RDA acquires and holds the title to the parcel.

**Determination whether to offer land for sale/redevelopment.** The RDA determines if land will be made available for sale or redevelopment and may consider all relevant information including but not limited to the following factors - any Redevelopment Plan, other City plans, environmental assessment and remediation needs, building demolition requirements, and potential combination with other parcels in the future. The RDA may determine that the land should be banked until a future date, or may determine that the land should be made available for more immediate redevelopment. If the land is made available for sale, then the following general process shall apply.

### **Conditions for Sale**

HNI has no Fair Market Value or LMI benefit requirement. HNI requires the residential unit(s) be affordable. The affordability of the unit is based on a 30% maximum of the occupant's annual household income spent on housing-related expenses.

## **Marketing – Private Sales**

The RDA determines the type of marketing to be used for selling the land. Staff shall place a “for sale” sign on the land. Staff shall list the available land on free or low-cost websites.

## **Marketing - Affordable Housing Partners**

The RDA may also enter into an agreement with an affordable housing partner for the development of a residential project on the property, either a new construction or a rehabilitation of the existing structure.

**Review and Approval of the Sales Price and Building Design** The RDA shall review offers received based on signs, websites, and other common means on a first-come, first-served basis. The RDA may grant Options on land as circumstances dictate. The RDA may also review the design of any structures proposed for the land as part of their deliberation

**Public Notice:** RDA and City Council agendas, packets and minutes are posted to the City’s website. Closed sessions are noticed as required by Wisconsin State Statutes.

## **Residential Land Acquisition and Sales Process – Capital Improvement Program Purchase**

The RDA has jurisdiction over spot-blighted properties and properties within redevelopment districts.

The purpose of this policy is to establish a transparent, accountable and effective residential land sales process that is consistent with state and federal requirements. The RDA reserves the right to deviate from this process when in the opinion of the RDA it is in the best interests of the City.

**Actions Required:** The RDA first makes determinations related to land acquisition and sales transactions for spot-blighted properties and properties within redevelopment districts, including but not limited to entering into options and accepting offers. The RDA and Council share responsibility for approval.

**Land Acquisition.** The City Council adopts a Redevelopment Plan or designates a blighted property in order for the RDA to acquire a blighted parcel. The RDA acquires and holds the title to the parcel.

**Determination whether to offer land for sale/redevelopment.** The RDA determines if land will be made available for sale or redevelopment and may consider all relevant information including but not limited to the following factors - any Redevelopment Plan, other City plans, environmental assessment and remediation needs, building demolition requirements, and potential combination with other parcels in the future. The RDA may determine that the land should be banked until a future date, or may determine that the land should be made available for more immediate redevelopment. If the land is made available for sale, then the following general process shall apply.

### **Conditions for Sale**

CIP funding has no mandated conditions for sale. Staff recommendations for policies for conditions for sale include:

1. Proposed redevelopment of the lot meets zoning and design requirements for the lot.
2. Condition of the land and/or structure.
3. Estimated rehabilitation cost and proposed sale price of the lot.
4. The potential impact on the neighborhood as a result of the project.
5. Potential redevelopment in combination with adjoining properties.
6. Projected Assessed Value of the new residential structures.

### **Marketing – Private Sales**

The RDA determines the type of marketing to be used for selling the land. Staff shall place a “for sale” sign on the land. Staff shall list the available land on free or low-cost websites.

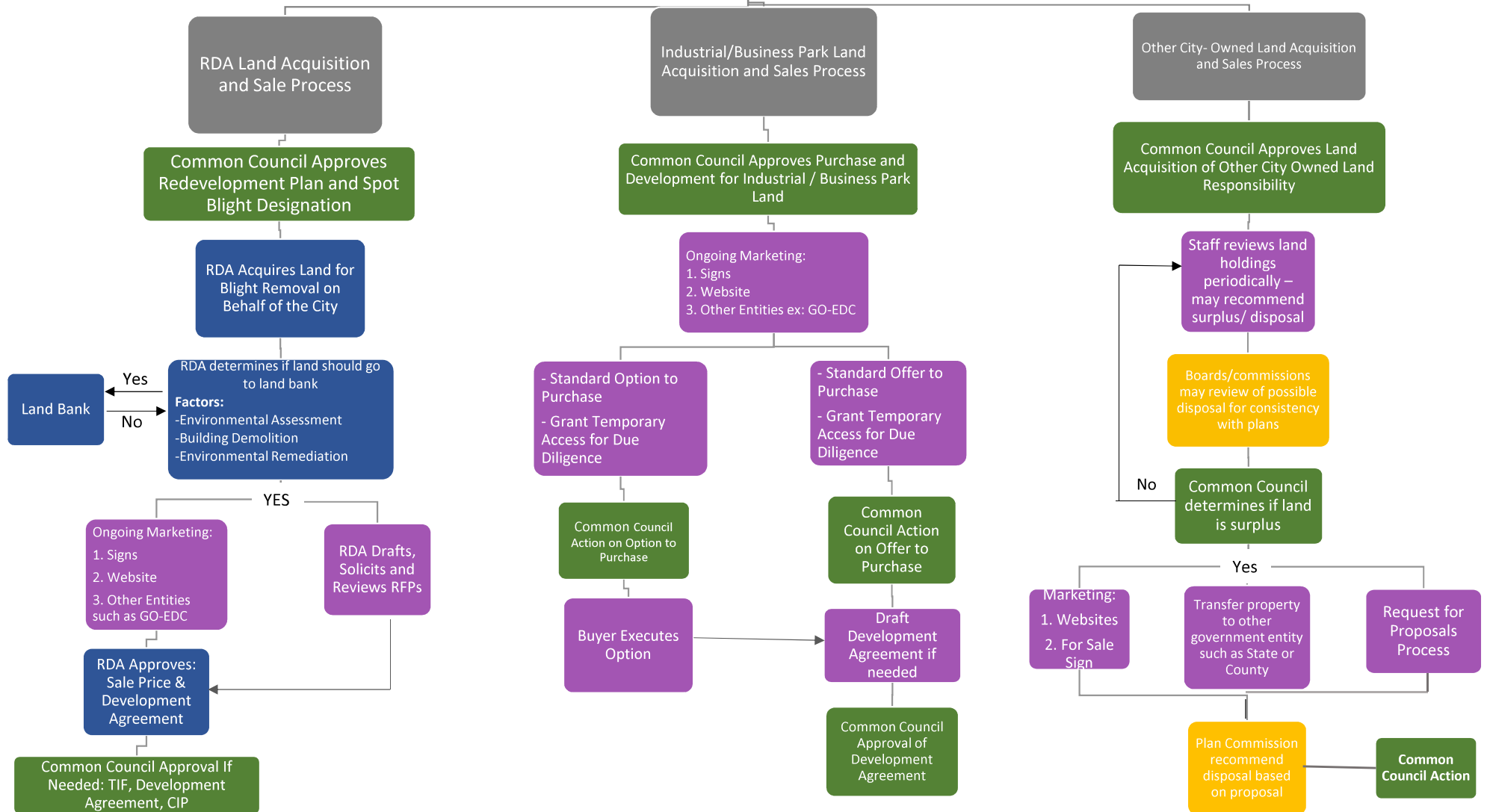
### **Marketing - Affordable Housing Partners**

The RDA may also enter into an agreement with an affordable housing partner for the development of a residential project on the property, either a new construction or a rehabilitation of the existing structure.

**Review and Approval of the Sales Price and Building Design** The RDA shall review offers received based on signs, websites, and other common means on a first-come, first-served basis. The RDA may grant Options on land as circumstances dictate. The RDA may also review the design of any structures proposed for the land as part of their deliberation.

**Public Notice:** RDA and City Council agendas, packets and minutes are posted to the City’s website. Closed sessions are noticed as required by Wisconsin State Statutes.

# City Commercial and Surplus Land Acquisition and Sale Process



■ Common Council

■ Redevelopment Authority

■ Boards & Commissions

■ City Staff

**RDA Land Acquisition and Sales Process**  
**– Redevelopment Authority (RDA) owned land**

The RDA has jurisdiction over spot-blighted properties and properties within redevelopment districts

The purpose of this policy is to establish a transparent, accountable and effective land sales process that is consistent with state law requirements. The RDA reserves the right to deviate from this process when in the opinion of the RDA it is in the best interests of the RDA and/or City.

**RDA Actions Required:** The RDA and Council share responsibility related to the acquisition of property and The RDA makes final determinations related to land disposition for spot-blighted properties and properties within redevelopment districts, including but not limited to entering into options and accepting offers. The RDA and Council share responsibility for approval of Development Agreements and Development Plans.

**Land Acquisition.** The Common Council adopts a Redevelopment Plan or designates a blighted property in order for the RDA to acquire a blighted parcel. The RDA acquires and holds the title to the parcel.

**Determination whether to offer land for sale/redevelopment.** The RDA determines if land will be made available for sale or redevelopment and may consider all relevant information including but not limited to the following factors - any Redevelopment Plan, the City's Comprehensive Plan other City plans, environmental assessment and remediation needs, building demolition requirements, and potential combination with other parcels in the future. The RDA may determine that the land should be banked until a future date, or may determine that the land should be made available for more immediate redevelopment. If the land is made available for sale, then the following general process shall apply.



## **Marketing**

### *Request for Proposals*

RDA determines whether a Request for Proposals (RFP) should be developed and distributed. Staff would develop the elements of the RFP including the existing land conditions, the City's future plans, potential costs of redevelopment, and desired redevelopment goals, including tax base and employment.

RDA issues the RFP and reviews Proposals accepted in response to the RFP. The RDA determines which, if any, proposal is accepted. The RDA may meet in closed session when needed to discuss terms and bargaining strategy or for other purposes permitted by Wisconsin Statutes.

The RDA selects the Proposal best judged to meet the City's goals or the RDA or may reject all proposals and reevaluate options related to the property or seek new or additional proposals. Staff drafts closing and other documents as needed.

### *General Marketing*

The RDA determines the type of marketing to be used for selling the land. Staff shall place a "for sale" sign on the land. Staff shall list the available land on free or low-cost websites. Other economic development entities such as GOEDC and WEDC shall be alerted to the availability of the land.

**Review of Offers.** The RDA will review any offers received based on signs, websites, and other common means on a first-come, first-served basis. The RDA may grant Options on land as circumstances dictate.

**Development or other Agreement, if required.** Elements that typically require a formal Agreement include, but are not limited to: Tax Increment Financing (TIF)/Development Agreement, Capital Improvement Plans (CIP) and City investments, Leasing Agreements, Development Plans, etc. If an Agreement is required, the RDA and Common Council, if required, will review and approve the Agreement by resolution and may meet in closed session to discuss the terms and bargaining strategy, if necessary.

**Review and Approval of the General Development and Specific Implementation Plans for Planned Developments.** Upon approval of the Development Agreement by the RDA and Common Council, if the proposed project involves a Planned Development, the Developer shall submit the proposed General Development Plan and Specific Implementation Plans to the City for review by the RDA and Plan Commission and approval by the Common Council.

**Public Notice:** RDA, Plan Commission and Common Council agendas, packets and minutes are posted to the City's website. Closed sessions are noticed as required by Wisconsin State Statutes.

## **City Industrial & Business Park Land Acquisition and Sales Process**

The City has created Industrial and Business Parks as part of the City's Economic Development Strategy. Sales of lands within the Industrial and Business Parks help retain and expand existing businesses and attract new businesses to Oshkosh.

The purpose of this policy is to establish a transparent, accountable and effective land sales process that is consistent with state law requirements. The Council reserves the right to deviate from this process when in the opinion of the Council it is in the best interests of the City.

**Common Council Actions Required:** The Common Council makes all final determinations related to Industrial and Business Park Land Acquisition and Sales transactions, including but not limited to entering into options, accepting offers and approval of Development Agreements and Development Plans.

**The Common Council determines if land should be acquired and developed for future Industrial and Commercial Development.** The Council may consider all relevant information including but not limited to: the City's Comprehensive Plan, the City's Economic Development Plans, Environmental assessment and remediation needs of the property proposed to be acquired and developed, and potential expansion prospects with other parcels in the future. The City Council may determine that land which is acquired should be banked until a future date, or may determine that the land should be made available for more immediate development. If the land is made available for development, then the following general process shall apply.

**Marketing.** Staff shall place a "for sale" sign on the land. Staff shall list the available land on free or low-cost websites. Other economic development entities such as GOEDC and WEDC shall be alerted to the availability of the land.

**Review of Offers** – The City will review offers received based on signs, websites, and other common means on a first-come, first-served basis. Staff coordinates site plan and restrictive covenant review with GOEDC. The Common Council may grant an "Option for Purchase" or accept an "Offer to Purchase" on land when in the sole discretion of the Council it is in the best interests of the City to do so.

**Development or other Agreement, if required.** Elements that typically require a formal Agreement include, but are not limited to: Tax Increment Financing (TIF)/Development Agreement, Capital Improvement Plans (CIP) and City investments, Leasing Agreements, Development Plans, etc. If an Agreement is required, the Common Council will review and approve the Agreement by resolution at a council meeting and may meet in closed session to discuss the terms and bargaining strategy, if necessary.

**Review and Approval of the General Development and Specific Implementation Plans for Planned Developments.** Upon approval of the Development Agreement by the Common Council, if the proposed project involves a Planned Development, the Developer shall submit the proposed General Development Plan and Specific Implementation Plans to the City for review by the Plan Commission and approval by the City Council.

**Public Notice:** Plan Commission and Common Council agendas, packets and minutes are posted to the City's website. Closed sessions are noticed as required by Wisconsin State Statutes.

## **Surplus City Land Acquisition and Sales Process**

City property may at times be determined to no longer be convenient or necessary for continued city use, such as when a utility facility may be removed or replaced. In addition, City departments such as Public Works, Parks and Transportation may identify a need for land acquisitions for City projects – such as streets, stormwater facilities, parks and parking lots. In some cases, there may be land that can be sold for development after the City project is completed.

The purpose of this policy is to establish a transparent, accountable and effective land sales process that is consistent with state law requirements for property formerly used by the City or acquired for city projects but which is determined to be excess or no longer necessary for city use and declared surplus. The Council reserves the right to deviate from this process when in the opinion of the Council it is in the best interests of the City.

**Common Council Actions Required:** The Common Council makes all final determinations related to Land Acquisition and Sales transactions for these types of property, including but not limited to determinations to acquire property, determinations whether property is surplus, and accepting offers for purchase.

**Land Acquisition.** City Departments identify the need for a project requiring land acquisition and budget for such acquisition in the City Capital Improvements Plan (CIP). The Common Council approves the Capital Project, budget, and land acquisition for a City project. The City Department implements the land acquisition and constructs the project as approved by the Common Council.

**Recommendation of Surplus Property.** City Departments shall at the completion of a project for land acquired for projects and at least annually for all real property under their Department control review and determine if any property is surplus and could be sold. The determination whether property is surplus should be based on all relevant information and consider – the potential for future needs by any City Department or Division, Redevelopment or other City Plans, environmental assessment and remediation needs, and potential combination with other parcels in the future. The City Department may also consider whether the land should be made available to another City, County or State department or entity.

**Common Council determines if the land should be retained by the City or sold.**

The Council shall review all property recommended for consideration as surplus by Departments and may consider all relevant information including but not limited to: the City's Comprehensive Plan, the City's CIP and Facilities Plans, Environmental assessment and remediation needs of the property proposed to be acquired and developed, and potential expansion prospects with other parcels in the future. The Common Council may determine that land should be banked until a future date or may determine that the land should be made available for sale or disposition to a State, County or other entity. If the land is made available for sale, then the following general process shall apply.

**Marketing for selling the land.**

*Proposals Process*

A Request for Proposals (RFP) or Response to Development Proposal may be developed. Staff would develop the elements of an RFP requesting proposals including the existing land conditions, the City's future plans, potential costs of redevelopment, and desired redevelopment goals, including tax base and employment.

Review of Proposals. Council will approve responses to Development Proposals. The Common Council determines which Request for Proposals, if any, proposal is accepted. The City Council may meet in closed session when needed.

The Common Council selects the Proposal best judged to meet the City's goals or may reject all proposals and reevaluate options related to the property or seek new or additional proposals. Staff draft closing documents as needed to discuss terms and bargaining strategy or for other purposes permitted by Wisconsin Statutes.

*General Marketing -*

Staff shall place a "for sale" sign on the land. Staff shall list the available land on free or low-cost websites. Other economic development entities such as GOEDC and WEDC shall be alerted to the availability of the land. If the location or other characteristics of the property make it of interest or use to a limited market, such as an adjoining property owner or GO-HNI or other similar organization, staff may approach such person/organization(s) for the purpose of determining their interest in the property and proceed on that basis.

**Review of Offers.** The City will review offers received based on signs, websites, and other common means on a first-come, first-served basis. The Common Council may grant Options on land or accept an Offer to Purchase on land when in the sole discretion of the Council it is in the best interests of the City to do so.

**The Plan Commission considers the land disposition.** The Plan Commission reviews the proposed land disposal and makes a land disposition recommendation to the City Council. Factors the Plan Commission considers include but are not limited to: the City's Comprehensive Plan, special area plans, Redevelopment Plans, Utility and Public Works Plans and other City needs.

**Common Council takes action on the proposed land disposition.**

**Public Notice:** Plan Commission and Common Council agendas, packets and minutes are posted to the City's website. Closed sessions are noticed as required by Wisconsin State Statutes.

Gifts, Donations, Memorials  
and Non-Commercial  
Naming Policy



## **CITY OF OSHKOSH GIFTS, DONATIONS, MEMORIALS, AND NON- COMMERCIAL NAMING POLICY**

The City of Oshkosh has been enriched by the generous donations of individuals and entities in support of the Oshkosh community. The City of Oshkosh welcomes and encourages support from private individuals and entities that support the programs and services the City provides to the public. The City will review proposed gifts and memorials for the purpose of assisting the donors in reaching their intended goals while recognizing the mission, goals, plans, resources, and limitations of the City as a whole. It is intended that this policy provide a thoughtful review process which considers the intentions of the donor, is sensitive to the needs and desires of the community, and is sensitive to the costs associated with proposed gifts and donations, including long- term costs of maintenance and care.

### **I. PURPOSE**

The purpose of this Policy is to provide a foundation including guidelines and procedures for considering and receiving proposed donations to the City of Oshkosh and for considering non-commercial requests for naming public property, structures, and facilities.

### **II. DEFINITIONS**

Donation(s)/Gift(s): Any item proposed to be deeded, bequeathed, or otherwise given or donated to the City of Oshkosh including, but not limited to, endowments, real property, public improvement projects or proposals, structures or portions of structures, money, negotiable securities, materials, equipment, flora, fauna, improvements to facilities or land, statues, monuments, memorials, tributes, sculptures, murals and other public works of art, plaques, and graphics or signs.

Donor: A private individual, for-profit company, non-profit organization, public agency, or any other public or private entity wishing to make a donation or gift to the City of Oshkosh.

Donor Recognition Object: A physical object such as a plaque or sign placed to acknowledge a donation or gift.

Monument/Memorial: An item or object established to preserve the memory of a deceased person(s) or an event that occurred in the past. Any statue, sculpture, mural or other structure or landscape feature designed to perpetuate in a permanent manner the memory of any person, group, event, or other significant element of history.

Park Amenity: Typical park improvements that contribute to the traditional use of park land such as benches, play structures, picnic tables, shelters, sports facilities, trails, etc.

Public Art: Any Work of Art to be donated to the City and integrated into the design of, or placed or performed in, on or about a place generally accessible or visible to the general public.

- “Work of Art” shall include any application of skill and taste to the production of tangible objects according to aesthetic principles, including but not limited to paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, tapestries, photographs, drawings and ceramics, but excluding purely structural or supportive elements, advertising, or those required by applicable law, code, rule, or regulation.

Public Improvement Project/Proposal: May include a funded or partially funded capital project(s) request consisting of real property, structures, portions of structures, materials and/or equipment for construction or renovation of a structure or landscape feature. Maintenance activities such as weeding or replanting established gardens, or repair or replacement of existing structures with the same or similar structures, are not considered public improvement projects for purposes of this policy.

Tribute: An item, object, or gift designed to acknowledge the contributions of a living person(s) to society. Projects recognizing groups such as persons with cancer or AIDS are also considered tributes.

### **III. APPLICABILITY**

This policy shall cover all donations and gifts to the City of Oshkosh and any of its Departments or Divisions except for donations made to the Oshkosh Public Library and Oshkosh Public Museum which are made pursuant to their own Donation Policies. Auxiliary organizations and members, volunteers and volunteer organizations directly under the control of any Department/ Division shall also be subject to this policy. Non-commercial requests for naming public property, structures and facilities shall also be considered under this policy. However, this policy is not intended to cover sponsorships, naming rights or other similar arrangements of a commercial nature.

The City of Oshkosh retains sole discretion to determine whether to accept or decline any proposed gift or donation. This policy shall not be construed to create any right for any individual or organization to make any improvement or place any items on any public property within the City of Oshkosh regardless of whether their proposal meets any or all of the criteria laid out herein.

### **IV. GENERAL PROCEDURES**

As donations and gifts vary greatly, the review process may be tailored according to the type of gift or donation proposed and the complexity of the proposal. Those wishing to make a gift or donation are strongly encouraged to contact the recipient City Department(s) or Division(s) at the earliest possible time to discuss the proposed gift and the process for review.

The City Manager shall cause a Donation Agreement Form to be created, subject to the Manager's approval, which shall include, as appropriate and applicable, the intent of the proposal, cost estimates, size, proposed siting, timeline, site drawing, future maintenance requirements, and any other information the City Manager may deem necessary and/or useful for the review of proposed gifts and donations.

Donation Agreement Forms will be completed for any gifts/donations with a value of \$100 or greater. The form may be completed by the Donor or by the Recipient Department or Division. Forms may be completed by the Donor or Department and must contain the signature of the Donor for donations of real and personal property (in all other circumstances, while signatures or correspondence signed by the donor are preferred, they are not required). The Recipient Department/Division shall work with the Donor to complete the form whenever requested.

The City Manager may delegate to the appropriate Department Heads the authority to approve gifts/donations valued in an amount of less than \$500. If the value of the gift/donation is less than

\$100, the recipient Department shall annotate the donation on a spreadsheet provided by the Finance Office which will have the following minimum information on it: Department/Division name, date of donation, amount or value of donation, Munis account number (org, object, project#), date donation was forwarded to Collections Division, and purpose of monetary donation or describe non-monetary donation. The Department Head shall submit the spreadsheet report to the Director of Finance on a semi-annual basis.

If the value of the gift/donation is \$500 or more, the gift/donation must be approved by the City Manager.

If the gift/donation is of real property; Public Art, a Memorial, or Tribute; is conditioned or donated specifically for use for a project or program that is not part of a previously approved/established/existing/budgeted project or program; or is required by statute, ordinance, or other policy of the City to be reviewed by a Board, Commission, or by Council; or if the City Manager determines for any other reason that it is appropriate, the proposed gift/donation shall be referred to any appropriate Boards/Commissions and to the Common Council for review and acceptance.

**\*Completed Donation Agreement Forms shall be filed with the Director of Finance.**

Specific Provisions Applicable based upon the Type of Donation

*Monetary Gifts and Donations/Gifts and Donations of Negotiable Securities*

- 1) **Previously established funds or campaigns.** The City Manager and/or Department Heads, upon approval of the City Manager, are hereby authorized to accept any monetary gifts or donations to be made for a previously approved/established/existing/budgeted fund or capital campaign.
- 2) **Undesignated/Unconditioned Monetary Gifts/Donations.** The City Manager and/or Department Heads, upon approval of the City Manager, are hereby authorized to accept any undesignated and/or unconditioned monetary donations made to the City and shall deposit such money with the Finance Department. The amounts shall be deposited in the account(s) that most appropriately matches the intentions of the Donor(s) when identified.
- 3) **Conditioned Donations.** In the event that a monetary donation is conditioned or donated specifically for a new Public Improvement Project, Memorial, Work of Public Art, Tribute, or new program, the Donation shall follow the procedures set forth in this policy as if the donation were to be made of the actual program or item proposed to be acquired or constructed. If the donation is not accepted, the Director of Finance shall return the donation to the donor. When appropriate, the Director of Finance may establish a new fund or project within a fund for the donation.
- 4) **Negotiable Securities.** The City Manager is hereby authorized to accept donations of negotiable securities when in his/her professional judgment, in consultation with the Director of Finance and the affected Department Head, acceptance of the proposed donation is in accordance with the statutes, rules, and regulations governing municipal finances and investment; and, the proposed donation is not subject to conditions, is for a previously approved/established/existing/budgeted fund or campaign, or is for a

conditioned donation that has been approved pursuant to this policy. Negotiable securities may be held or sold at a marketable rate and the proceeds of such sale used as specified by the donor or as may be deemed appropriate in the best interests of the City.

*Gifts of Real Property*

The City Manager shall review any proposed donation of real property and make recommendation to the appropriate Boards or Commissions and to the Common Council. Proposed gifts or donations of real property shall be reviewed for suitability for the intended use or potential for resale, any conditions which may be placed upon the use of the property by the donor, potential environmental concerns, probable maintenance costs, and any other relevant information. Appraisals of the property may be requested from the Donor. All gifts or donations of real property shall be reviewed by the Plan Commission for recommendation prior to Common Council action.

*Non-Monetary Gifts and Donations (excluding real estate)*

- 1) The City Manager and/or Department Heads, upon approval of the City Manager, are hereby authorized to accept donations of materials or other items made for previously approved/established/existing/budgeted projects or materials or other items that are typical for use in a City Department or Division.
- 2) The Director of Parks is hereby authorized to accept donations of typical park and recreation amenities such as benches, recreation program and sports equipment, gifts of trees or other flora, and similar items without other formal approval required.
- 3) For other gifts and donations including, but not limited to, substantial gifts such as Public Art, Memorials, Tributes, and Public Improvement Projects, the City Manager, Boards/Commissions and Common Council shall consider all of the circumstances surrounding the proposed gift including the criteria as enumerated within this policy and as may be applicable to the proposed donation. If the donation is approved and if appropriate, the Director of Finance may establish a new fund or project within a fund for the donation.

**V. CRITERIA FOR EVALUATING GIFTS AND DONATIONS**

In order to assist potential donors to fulfill their desires to make a gift or donation to the City of Oshkosh and to ensure that all gifts and donations are consistently, fairly, and thoughtfully reviewed, the City will be guided in its review of proposed gifts and donations by the following guidelines.

*Donations of Memorials/Tributes/Public Improvement Projects, and Works of Art:*

When reviewing proposed donations of Memorials, Tributes, Public Improvement Projects, and Works of Art, the following criteria shall be considered, as well as any other criteria which may be relevant on a case by case basis:

- Consistency with the mission, policies and master plans governing the City of Oshkosh and/or the particular Department or Division
- Whether the proposed donation/gift provides improvements to an area of the City which may be deficient in public amenities

- Whether the proposed donation/gift promotes the preservation of historical and cultural aspects of the community
- Whether the proposed gift/donation has an educational component
- Whether the proposed donation/gift helps to promote conservation, preservation, and protection of the natural environment
- Whether the proposed gift/donation helps to promote preservation of natural areas and greenspace where such preservation is suitable, is contemplated by plans, or is otherwise desirable
- Whether the proposed gift/donation provides a new or different experience for the public
- Whether the proposed gift/donation promotes the use of public spaces for a variety of interests such as special events, sports tournaments, competitions, and other recreational opportunities, including both active and passive recreation in a park or other area where such uses are suitable, are contemplated by plans, or are otherwise desirable
- Whether the proposed gift/donation is suitable for the purpose proposed
- Whether the proposed gift/donation is compatible with the proposed location, if one has been identified, and other users of the public space
- Whether the proposed gift/donation compliments or is harmonious in quality, scale, and character with existing improvements and features in the area
- Whether the proposed gift/donation is a traditional park or municipal amenity
- Whether the proposed gift/donation reuses, rehabilitates, or restores an existing park or municipal feature or replaces aging, outdated, or unsafe infrastructure
- Suitability of the gift/donation to the environmental conditions of public display
- Susceptibility of the gift/donation to wear and vandalism
- Suitability of the gift/donation to the technical requirements or design standards for installation of improvements in public places
- Whether any public safety or security issues are identified and the potential danger to the public health, safety, or welfare associated with the proposed gift/donation
- Whether the proposed gift/donation complies with all applicable codes including building codes and ADA requirements
- Whether the proposed gift or donation is restricted in any manner and the impact of those restrictions or contingencies
- If the proposed gift/donation is real property, the financial implications of removing the property from the City's tax base
- Financial implications to the City of Oshkosh based on the cost of the proposed gift/donation or project implementation including installation and ongoing maintenance and the costs of relocation or removal, if necessary.

The level of maintenance and costs of relocation or removal vary depending on the nature of the proposed gift/donation. In general, donors will be asked to contribute enough money to cover long term maintenance costs, relocation and removal, if reasonably anticipated. These costs shall be estimated and submitted with the donation form and may be provided through the establishment of a maintenance fund, endowment, or other suitable means.

The City may agree to take on future maintenance costs and shall consider the following criteria when making such decision.

- The community's need or desire for the donation or improvement;
- Whether, and to what extent, the proposed gift/donation provides new or diverse experiences for community members and visitors;
- The financial capacity of the donor;
- Ease of maintenance and repair; and
- Whether the annual maintenance cost is so low as to be negligible.

The City shall also consider that circumstances may arise which may prevent a donor or previously established maintenance fund from covering the costs of maintenance and care and that these costs may ultimately become a City responsibility.

#### Works of Art

In addition to the above listed criteria, if the proposed gift/donation is a Work of Art, the following criteria shall be considered as well as any other criteria which may be relevant on a case by case basis:

- Quality of the work based upon a professional assessment of the work, detailed written proposal, drawing, maquette, or photographs
- Suitability of the theme of artwork to a public venue
- Appropriateness of the artwork to the site, in the case where a particular site has been requested or identified
- Appropriateness of the process for selecting the artist or artwork
- Qualifications of the artist based on documentation of past work and the artists professional qualifications

#### Memorials / Tributes / Naming

The City of Oshkosh respects the desire of individuals to commemorate special events or the lives of loved ones, living and deceased. However, the City also recognizes that other community members who visit public places may desire not to be burdened with a constant reminder of mortality, death, or traumatic events. The City also recognizes the important contributions of many individuals to community life and that it is simply impossible to recognize all of those contributions. To that end, if the proposed gift/donation is a Memorial or Tribute or a non-commercial request to name a public space or other item, the City of Oshkosh shall consider the following criteria, as may be appropriate to the particular donation, in addition to those criteria identified above.

- The person memorialized must have been deceased for a minimum of five (5) years; or an event must have occurred at least five (5) years ago.
- The proposed gift/donation must have timeless qualities and make a statement of significance for future generations
- The proposed gift/donation must represent a person or event deemed significant to the City of Oshkosh's history; names of individuals who have made a significant contribution directly and locally to the City of Oshkosh shall be preferred over the names of national figures

- The proposed gift/donation must meet the general criteria enumerated in this policy
- Whether any increased use of the park or public area resulting from the placement of the memorial or tribute is appropriate to the surrounding context and uses
- Whether the design of the particular gift/donation is solely representative of the particular person or event being commemorated or is of a broader community appeal
- Whether the proposed gift/donation has a functional component
- Whether the individual or group is associated with the particular building, park, or other public facility at issue
- When possible, the family should be contacted and allowed an opportunity to comment upon the naming of a building, park, or facility after an individual
- In and of themselves, contributions of land or money for public facilities shall not be considered sufficient justification for naming or renaming facilities after individuals, in tribute or memoriam

## **VI. DONOR RECOGNITION OBJECTS**

The City of Oshkosh appreciates the desire of some donors to be recognized either personally or on behalf of another for their generous donations. If a donor recognition object is to be included as part of a proposed gift/donation, such object should be specifically identified and submitted with the Donation Agreement Form for approval. In general, it is the policy of the City of Oshkosh to limit donor recognition objects to plaques or other recognition objects which are small in scale, which do not detract from green space areas and/or which are part of an approved project, for example projects involving the use of personalized decorative tiles or pavers. The City Manager and Department Heads are hereby authorized to approve Donor Recognition Objects which are proposed in accordance with this policy.

## **VII. ADDITIONAL REQUIREMENTS**

Establishment of Trust Accounts. Trust accounts must be designated for a specific purpose and an appropriate trust agreement must be created. The City of Oshkosh will not create a separate Trust Account for donations in an amount smaller than \$10,000. For amounts greater than \$10,000, the Donor may request and the City of Oshkosh may establish a separate Trust Account for the donated funds.

Private Construction. If construction of a Public Improvement Project is coordinated or contracted for by the donor, the donor will be responsible for complying with all federal, state, and local laws which may include competitive bidding. The donor will also bear the cost of all necessary permits, approvals, project management, design, installation, and manufacture of the gift/donation unless these costs are specifically accepted or waived by the City of Oshkosh.

Proof of compliance with the City's insurance requirements for contractors will be required before work may commence on any Public Improvement Project.

Improvements made in a public place become the property of the City of Oshkosh and are subject to the laws, policies, and procedures of the City of Oshkosh.



Damaged, lost, stolen or worn gifts or donations. The City is not obligated to replace any gift/donation or improvement if it is lost, stolen, damaged, or worn.

The City of Oshkosh reserves the right to remove any donated project or portion of a project for safety reasons, deterioration caused by age, neglect or vandalism, and/or the City's inability to finance ongoing maintenance or repairs.

Acknowledgements & Anonymity. All donations for which the donor does not request anonymity shall be acknowledged by the City Manager, Director of Finance, or appropriate Department Head with a letter of appreciation. For a monetary gift given in memorial, tribute, bequest, or in recognition of someone, a letter shall be sent to the person or family of the person being honored.

Because the City of Oshkosh is a municipal entity and subject to the provisions of the Wisconsin Public Records Law, the City cannot guarantee anonymity of individual donors but will work with individuals who wish to remain anonymous in their donations to provide appropriate means for those individuals to make their gifts/donations while maintaining their privacy.

Appraisals. The City may, at its option, request or require an appraisal of real or personal property prior to the acceptance of any gift or donation.

Waiver of Terms of this Policy. The City Council may waive any of the criteria specified within this policy upon a finding that it is in the best interests of the City to do so.

Tax Liability. It is the responsibility of the donor to assign a monetary value to a gift or donation for tax purposes. Information provided by the City of Oshkosh, its officials, employees, or agents in connection with gifts/donations is intended to be informational only and is not intended to be a substitute for professional financial or legal advice or opinions. The City of Oshkosh makes no representations or guarantees as to the tax implications of any gift or donation made to the City. Donors are responsible and are advised to obtain their own tax and financial advice from appropriate professionals.

## **VIII. REPORTS**

Departments shall report gifts/donations made through the completion of a Donation Agreement Form for any gifts/donations with a value of \$100 or more to the Director of Finance. If the value of the gift/donation is less than \$100, the recipient Department shall annotate the donation on a spreadsheet provided by the Finance Office which will have the following minimum information on it: Department/Division name, date of donation, amount or value of donation, Munis account number (org, object, project#), date donation was forwarded to Collections Division, and purpose of monetary donation or describe non-monetary donation. The Department Head shall submit the spreadsheet report to the Director of Finance on a semi-annual basis.

Annually, after the close of the fiscal year, the Director of Finance shall provide a report to the Council including details of gifts/donations. Trust Funds will be reported separately on the annual Trust Report.





**Proclamations Policy  
Adopted May 24, 2022**

### Proclamations

The City provides for the issuance of proclamations as a discretionary act by the Mayor within Chapter 2 of the Oshkosh Municipal Code. The City of Oshkosh respects the desire of individuals to observe certain dates, provide public awareness, commemorate special events and recognize milestones for persons or organizations through the issuance of local proclamations. The City also recognizes the important contributions of many individuals and organizations to community life and that it is simply impossible to recognize all of those contributions.

A proclamation is an official announcement and/or declaration intended to encourage public awareness and provide recognition for certain dates, events, achievements and activities that are significant to the City of Oshkosh. Proclamations are ceremonial and do not have any legislative or legal force of law. Issuance of a proclamation acknowledges the effort and commitment of an organization or individual(s) but does not constitute official sponsorship of a particular viewpoint, matter or event. A proclamation is an expression of the community and the local government and should reflect the principles and policies of the City of Oshkosh including inclusiveness and promotion of the City of Oshkosh as a welcoming place.

To this end, the City Council adopts the following policy to guide the Mayor in the issuance of proclamations.

### Timing

Requests for proclamations may be submitted 30 days in advance of the date/event requested to be proclaimed and shall be made no less than 2 weeks in advance whenever possible.

Proclamations will generally be issued and read at the beginning of Council meetings.

### Guidelines for Issuance of Proclamations

Requests for proclamations will be accepted from City of Oshkosh residents; persons/organizations owning real property within the City of Oshkosh; or local organizations operating within the City of Oshkosh.

Proclamations will be issued at no cost to the group or individual(s) requesting or receiving such proclamation.

Proclamations may recognize a particular day, week or month; event; organization; or person.

Proclamations may overlap. No person or entity shall have exclusive rights to any particular day, week or month.

Proclamations must be completed each time a request is made. There shall be no standing or continuing requests for proclamations.

Proclamations will be issued only for persons, organizations, matters or events which have some demonstrable local impact or connection.

Proclamations may recognize:

- significant local events or celebrations
- local arts and cultural celebrations
- charitable events of local non-profit organizations
- promotion of local events or programs of local service clubs
- public awareness campaigns with local connection or significance
- local organizations/person(s) who have achieved extraordinary distinction or accomplishment
- organizations/person(s) whose contributions to the community warrants significant public recognition
- days that are locally noteworthy or historically significant

#### General Restrictions

The City through the Mayor of the City reserves the right to approve, approve with modifications or reject any request for a proclamation and to vary from the specific provisions of this policy when the Mayor or Council in their sole discretion find it to be in the public interest to do so.

The City Council is a non-partisan elected body and proclamations will not be issued for political purposes or upon issues with obvious or controversial partisan political viewpoints, political controversy or which are matters of personal conviction.

Proclamations cannot conflict with or be contrary to the United States Constitution, Federal laws, Wisconsin Constitution or Statutes, or City Ordinances.

The City of Oshkosh is committed to providing a welcoming and inclusive environment for its citizens. Proclamations will not further discrimination on the basis of race, color, religion, gender, gender expression, sexual orientation, marital status, or disability.

Proclamations cannot conflict or substantially interfere with the Council's legislative authority. Proclamations will not be issued for any matter under consideration or vote by the City Council.

Proclamations cannot conflict or substantially interfere with the City Manager's Administrative/Executive Authority.

Requests for proclamations that are the same or substantially the same as proclamations already done for the particular calendar year may be declined.

Proclamations will not be issued for individual birthdays, retirements, weddings, anniversaries, or similar personal milestones. The Mayor in her/his discretion may recognize such dates as she/he is able and deems appropriate.

Proclamations will not be issued for commercial for-profit promotion or advertisement, including for business conferences and commercial events.

### Procedure

Requests must be made in writing on a form available through the City Manager's office. Requests must include the name and contact information of the requester, a brief summary and background of the event and organization, the name and date(s) to be proclaimed. If the proclamation is to be issued at a council meeting, the request shall include the name of the individual(s) who will be present to accept the proclamation. Draft language may be provided with a request for a proclamation, however, any draft language may be edited or rewritten at the discretion of the Mayor/Designee.

The Mayor will review all requests for proclamations and make the final determination on whether to issue a proclamation and whether the proclamation will be placed on the council agenda for issuance. The Mayor may choose to recognize a person or event in a manner other than formal proclamation at the Mayor's discretion. If the determination is made not to issue the proclamation, the requester may be informed of such determination.

If the Mayor determines to issue a proclamation, the City Manager shall have the item placed on the council agenda. Upon request, a copy of the proclamation will be provided to council members prior to the council meeting. If any council member objects to the proclamation, they should advise the Mayor, City Clerk and City Manager of their objection in advance of the meeting. If an objection is made prior to issuance, the Mayor may withdraw the proclamation, edit or delay the proclamation if the objection may be addressed by amendment to the language of the proclamation. If the objection continues, the matter may be placed on the agenda and is open for consideration and vote on the issuance of the proclamation. If the measure fails to achieve a majority of the members present and voting, the proclamation shall not be issued or read.

# Policy for Review of Unused Liquor Licenses

(CARRIED 7-0 LOST \_\_\_\_\_ LAID OVER \_\_\_\_\_ WITHDRAWN \_\_\_\_\_)

PURPOSE: APPROVE PROCESS FOR REVIEW OF ALCOHOL BEVERAGE  
LICENSES UNDER SECTION 4-6 OF THE CITY OF OSHKOSH  
MUNICIPAL CODE

INITIATED BY: CITY ADMINISTRATION

WHEREAS, Wisconsin imposes a quota on the number of "Class B" (taverns, bars restaurants licensed to sell alcohol for on-premises consumption) in each municipality; and

WHEREAS, Section 125.10 of the Wisconsin Statutes allows municipalities to enact regulations incorporating the state statutes and additional regulations for the sale of alcohol beverages, not in conflict with the state statutes; and

WHEREAS, the municipality may prescribe forfeitures or license suspension or revocation for violations of these municipal regulations; and

WHEREAS, the City of Oshkosh has adopted ordinance section 4-6 of the City of Oshkosh Municipal Code requiring the use of licenses under its authority granted by Section 125.10 Wis. Stats.; and

WHEREAS, the Council finds that it is reasonable and necessary to have an ordinance and policy implementing that ordinance to ensure that alcohol beverage licenses, which are limited by a state quota, benefit the public by supporting currently operating businesses and being available for new businesses wishing to locate within the municipality and contribute to the community and tax base, and to ensure that licenses are not held for private speculative purposes or for an unreasonable period to enhance the value of non-operating premises; and

WHEREAS, the Council recognizes the need to fairly and consistently enforce the provisions of Section 4-6 and all regulations relating to the sale of alcohol beverages; and

WHEREAS, the Council wishes to establish a policy for review of licenses which have not been utilized for a period of time.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oshkosh that the following process for review of alcohol beverage licenses under the provisions of Section 4-6 of the City of Oshkosh Municipal Code is hereby adopted.

Process for Review of Alcohol Beverage Licenses  
under Section 4-6 of the City of Oshkosh Municipal Code

Throughout the year, the City Clerk's office shall review alcohol beverage licenses issued by the Common Council for compliance with the provisions of Section 4-6 of the City of Oshkosh Municipal Code.

If the City Clerk's Office identifies a license holder who appears to meet any of the criteria specified in Section 4-6(A), the Clerk's Office shall contact the license holder and request the license holder provide information pertaining to the use of the license for the relevant period. Upon review of this information, the City Clerk shall notify the City Manager of his/her findings and the City Manager may request direction of the Council whether to schedule the license for hearing for revocation or non-renewal of the license as may be appropriate.

If the Council determines to schedule the matter for revocation, the complaint may be filed and sworn by the City Manager, Asst. City Manager or their designee based upon the record of information in the office of the City Clerk as well as any other information which may be relevant to the Council's decision.

If the Council determines to schedule the matter for consideration of non-renewal, the City Clerk shall provide appropriate notice to the licensee as required by Wisconsin Statutes.

Hearings on revocation or non-renewal of licenses shall be conducted as provided by Chapter 125 of the Wisconsin Statutes.



# Policy for Lost Property and Removal of Abandoned or Unauthorized Personal Property

## **POLICY ON REMOVAL OF ABANDONED OR UNAUTHORIZED PERSONAL PROPERTY**

### **Statement of Purpose / Applicability**

To establish guidelines for the removal and storage or disposal of tangible abandoned or unauthorized personal property located on city owned or operated properties.<sup>1</sup>

This policy shall not apply to financial assets or financial accounts subject to Chapter 177 of the Wisconsin Statutes entitled the "Uniform Unclaimed Property Act."

This policy shall not apply to abandoned, wrecked, dismantled or discarded vehicles as defined under Chapter 27 Article III of the City of Oshkosh Municipal Code.

This policy shall not apply to retention of property by citizens under the provisions of Chapter 170 of the Wisconsin Statutes.

### **Statutory and Ordinance References**

Section 12-17 of the City of Oshkosh Municipal Code – Abandoned or Surplus Property

Section 25-26 of the City of Oshkosh Municipal Code – Obstructions in Street Prohibited

Chapter 27 Article III of the City of Oshkosh Municipal Code – Abandoned, Wrecked, Dismantled or Discarded Vehicles

Chapter 170 of the Wisconsin Statutes –Strays and Lost Chattels

Chapter 177 of the Wisconsin Statutes Uniform Unclaimed Property Act – applies to financial assets and financial accounts

### **Attempt to Return Property**

Any City Employee finding or coming into possession of property, shall attempt to ascertain if the owner can be easily determined and located and if the property may be returned in an expeditious manner. If an employee is able to quickly locate the owner and return the property the employee may do so.

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<sup>1</sup> This policy shall not apply to the Oshkosh Public Library or Redevelopment Authority unless adopted by their respective boards.

## **Items That Will Not Be Retained or Stored**

### **Items to Be Disposed of Immediately**

**Refuse:** Items with no apparent monetary or sentimental value or utility. Employees shall inspect each item and make individual determinations based on the totality of the circumstances including apparent efforts to protect items from weather and disturbance, labelling of items, apparent value of the items and other factors. The following listings of refuse and non-refuse items may be used as a general reference in making the determination whether an item is refuse or non-refuse.

Refuse items under this policy will generally include items such as:

- non-personal papers
- paper refuse
- food remains
- empty glasses, bottles or cans
- opened and/or partially used toiletries
- broken, dismantled, torn, dirty or otherwise damaged items
- any medications and paraphernalia associated with medications<sup>2</sup>

Not refuse (unless broken, dismantled, torn, dirty or otherwise damaged as noted above):

- wallets or purses
- identification
- jewelry
- electronic equipment including phones, radios, chargers and similar items
- personal papers including photographs, books, diaries or similar items
- tents / tarps in good repair
- luggage, Backpacks or storage containers
- bed rolls, sleeping mats, sleeping bags, pillows, mattresses, air mattresses
- sporting equipment
- camping equipment, equipment for food preparation or temporary heating
- clothing, hats, gloves or mittens, shoes, towels
- unopened toiletries

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<sup>2</sup> Employees should use their judgement and consider the totality of the circumstances, but any loose medications or medications that are mixed with other items, even if bottled, should be safely destroyed rather than returned as the City will be unable to confirm that the items have not been altered or tampered with if they were found lost or abandoned.

- eyeglasses
- keys
- books, educational workbooks and supplies
- bagged recyclables
- items stored in a manner that suggest the owner intended to keep it

Health or Safety Hazards: Any chemical, physical or biological hazard that reasonably appears to pose a risk to health, safety or property when contacted, stored or transported and includes, but is not limited to: items commingled with human or animal waste or other contaminant; needles; spoiled or rotten food; or items that are flammable, explosive or incendiary.

Signs Within the City Right-of-Way or Posted on City: Unauthorized signs within the City's right-of-way, which are in violation of Chapter 25 of the Municipal Code, or on other City property may be removed and destroyed by City employees without the requirement for storage under this policy.

### **Items to Be Turned Over to Law Enforcement**

The Oshkosh Police Department (OPD) should be consulted regarding items containing personal identification or items of obvious value and such items may be picked up by or transported to and turned over to OPD as an officer may direct.

Wallets, Purses: Wallets, purses and similar items may be held for up to two business days at the City facility/department at which it is found, but if not claimed in that time period, employees shall provide such items to OPD. If a wallet, purse or similar item contains a significant amount of cash or other valuables, OPD should be consulted and may take immediate possession of such items.

Weapons: Weapons such as guns, knives, swords, pepper spray, clubs, or other weapons or instruments that are capable of causing great bodily harm or death shall be turned over to OPD for storage or destruction as state and federal law may dictate.

Jewelry: OPD may be consulted for items of jewelry. Obvious costume or inexpensive jewelry may be treated as lost and found and kept at the appropriate City facility.

Medication, Pills, Drugs and Drug Paraphernalia: Over-the-counter medication or non-prescription medication and paraphernalia shall be disposed of as refuse as provided above.

OPD shall be consulted regarding illegal drugs or drug-related substances and paraphernalia. Any such substances or items will be provided to OPD on their request or be disposed of as medical waste upon their direction.

The City will not store prescription medication. All prescription medications shall be disposed of in the dropbox located in the Public Safety Building by the recovering department.

### **Individual Items / Lost and Found**

Smaller individual items of personal property that are found should be taken to the designated "lost and found" area for the City facility at which they are found. Any employee finding or given a lost item should deliver it to the appropriate lost and found area as soon as practical in keeping with their normal duties.

For items found within City parks, items may be taken to the Parks Department offices located at Witzel Avenue if there is no lost and found area designated at the individual park site. For items found within or on a City right-of-way or other vacant non-park property, items should be taken to the Department of Public Works Streets Division offices located at Witzel Avenue.

Reasonable care should be taken to store items deemed lost and found to prevent damage to or theft of the property.

Items may be returned to persons claiming lost and found items with proof of ownership or upon other reasonable method of identifying the property.

Lost and found items shall be stored for a minimum period of 14 calendar days.

Items that are not claimed may be disposed of or turned over to the Purchasing Division for disposition or disposal as surplus property.

### **Homeless Encampments (Individual or Group) or Collections of Items that may be Possessions of an Unhoused Individual**

The City understands that there may be persons who may be unhoused for various reasons. The City is committed to helping unhoused persons find appropriate housing or services that may be available within the community. This policy is intended to provide guidelines for the removal and clearing of tents, encampments or other dwellings

and for the treatment and storage of personal property attached to, stored, abandoned or found upon on City-owned property in connection with a homeless dwelling, campsite or encampment.

Individual or small collections of items such as bags containing items, sleeping bags, backpacks, shopping carts or pull behind carts that do not reasonably appear to be indicative of being a dwelling, campsite or unhoused person's collection of their personal property will be treated as "Individual Items and Lost and Found" under the previous section of this policy.

The City will prioritize clearing areas under this section of the policy based upon any specific policies limiting access to or the use of the property that is expressed through signage at the property, and also the adverse impacts upon the particular property from the leaving or storage of items of personal property. Adverse impacts are determined by a combination of factors, including but not limited to the following:

- i. Interference in places for which persons may obtain a permit for exclusive use of the City facility, such as parks, park shelter, special event site boundaries, or sport facilities.
- ii. Interference with the use of right-of-way, Park Trail, sidewalk, pedestrian ways or paths. Items within 10 feet of any right-so-way, Park Trail, sidewalk, pedestrian way or path shall be presumed to interfere with the right-of-way.
- iii. Evidence of illegal activity occurring in or near an area.
- iv. Activity which is a threat to infrastructure, such as damage to or fires within or near public facilities.
- v. Activity which interferes with maintenance efforts or other work being performed at or near a location.
- vi. Threats or acts of violence or disorderly conduct at or near a location.
- vii. Health or safety hazards at or near a location.

### Notice

Written notice of the intention to remove items associated with unhoused persons under this section shall be placed on each identifiable structure, tent, bedroll or grouping of possessions at least 24 hours in advance of removal of any items. Notice shall also be faxed, emailed or delivered to the Day by Day Shelter, Father Carr's Place 2B, Winnebago County Social Services, and any/other facility or entity requesting notification of removal of items at least 24 hours in advance of the removal of any items.

The notice period may be shortened in the event of emergencies that may require the immediate evacuation of an area, such as a catastrophic event, natural disaster or other urgent health or safety concern.

The notice shall contain the following information:

- I. The date of the notice
- II. The address or other description sufficient to clearly identify the location to be cleared
- III. The proposed date and time of clean up of the location
- IV. The name and contact information for the Department/Division of the City conducting the cleanup
- V. A notice that some items may be disposed of immediately as hazardous material, abandoned medication or refuse.
- VI. The location where items not immediately disposed of will be stored and where they may be reclaimed, as well as the hours that items may be reclaimed and a telephone number to call for more information or to arrange for pick up of items
- VII. A notice that items will be stored for a period of no less than thirty (30) days from the date of cleanup and that if the items are unclaimed within that time, that the items may be disposed of without further notice

Cleanup shall be completed or supervised by a City employee.

Cleanup will occur only on the date(s) specified in the notice or on the next business day. If clean up cannot be completed on the date noticed or the next business day, a new notice shall be issued prior to any clean-up activities occurring.

Individuals who provide the City representative with sufficient information that they are the owner of the property and who may be present at the time of cleanup will be given a reasonable opportunity to remove property prior to City employees or agents removing the items.

Items that are health or safety hazards or cannot or should not be stored may be taken by the City and disposed of immediately. Items that are retained or stored under the terms of this policy should be placed in transparent plastic bags or other containers and marked as to the date and location of collection.

Items may be placed together in a single bag if collected on the same date and at the same location and there is an indication that they may all belong to a single owner.

After items are collected, a notice shall be left at the collection site informing persons of the collection date and time, giving contact information and location of storage for reclaiming items.

### **General Provisions**

Nothing in this Policy shall prohibit the City from immediately removing items that are obstructing passageways or right-of-way, or any place that is subject to use by the public and the items obstruct the public's lawful use and then giving notice, if required under this section.

Each department or facility shall establish specific policies for collection, storage, logging of items, disposal, return of items and such other matters as may be relevant and pertinent to the department or facility. An example of a log that departments and/or facilities may use to inventory abandoned property is included as part of this policy.



# Lead Service Line Replacement Policy

# Lead Service Line Replacement Policy

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## 1. Acronyms and Definitions

“Child-care facility” shall mean any state-licensed or county-certified child-care facility including, but not limited to, licensed family childcare, licensed group centers, licensed day camps, certified school-age programs, and Head Start programs.

“City” shall mean City of Oshkosh.

“Confirmed water sample test” shall mean a tap water analysis completed after a prior analysis that indicated lead levels at the United States Environment Protection Agency (USEPA) action level, and conducted in accordance with the Lead and Copper Rule, with **Chapter NR 809.547**, Wis. Adm. Code., and with instructions provided by the City.

“Contractor” shall mean a person, firm, corporation, or other entity pre-qualified by the City of Oshkosh to complete private side lead service line replacements.

“Federal Safe Drinking Water Act” shall mean **42 U.S.C.A. Sec. 300f-300j-26**.

“GIS” shall mean Geographic Information System.

“High-risk lead service” shall mean any lead water service line where a confirmed water sample test of a customer’s tap water reveals a lead concentration at or above the USEPA action level.

“Lead and Copper Rule” (LCR) shall mean the rule created by the USEPA and adopted by the Wisconsin Department of Natural Resources (WDNR) in response to the passage of the Safe Drinking Water Act, which provides maximum contaminant-level goals and national primary drinking water regulations for controlling lead and copper in drinking water including approved corrosion-control treatment techniques, lead service line replacement, and public education. The rule may be found in **56 FR 26460**, **40 CFR part 141.80-141.90**, and **Chapter NR 809.541-NR809.55**, Wis. Adm. Code.

“Lead Service Line” (LSL) shall mean (i) all or a portion of a water service line constructed of lead, and/or (ii) all or a portion of a water service line constructed of galvanized material that is or was downstream of lead. The term includes both private-side water service lines and public-side water service lines.

“Lead Service Line Replacement” (LSLR) shall mean full replacement of an LSL.

“Licensed Plumber” shall mean a person, firm, corporation, or other entity licensed to perform plumbing work in the City by the State of Wisconsin.

“Ordinance” shall mean City of Oshkosh Municipal Code, **Chapter 20 – Plumbing** and /or **Chapter 28 - Water**.

“ppb” shall mean parts per billion.

“Private-side water service line” (Private-side) shall mean the water pipe running from the customer’s meter to the curb stop, which is the Water Utility shut-off valve. This portion is owned by the property owner and is the responsibility of the property owner to maintain.

“Public-side water service line” (Public-side) shall mean the water pipe running from the City’s water main to and including the curb stop, which is the Water Utility shut-off valve.

“SDWLP” shall mean the Safe Drinking Water Loan Program.

“water service line” shall mean the pipe that connects the water main to the customer’s meter.

“Water Utility” shall mean the City of Oshkosh public water system, also known as Oshkosh Water Utility.

## 2. Background and Purpose

The City has several thousand Lead Service Lines (LSLs) located on both public and private property. The Federal Lead and Copper Rule (LCR) under the Safe Drinking Water Act requires that samples taken at customers’ taps have less than fifteen (15) parts per billion lead. To comply with the LCR, the City controls LSL corrosion with the addition of a phosphate-based corrosion inhibitor and a pH adjustment chemical at the water treatment plant.

Recent scientific studies, proposed changes in LCR sampling procedures, and incidents of elevated lead levels in public water systems have driven regulators and municipalities to reconsider LCR requirements, regulatory compliance, LSL replacement policies, and public communication about lead and drinking water.

Prior to 2017, the City had replaced the public portion of LSLs in conjunction with water main replacements; however, the corresponding private-side portions of the LSLs were not required to be replaced.

To reduce the potential exposure to lead in drinking water, the City adopted revisions to the City of Oshkosh Municipal Code **Chapter 20 – Plumbing** to make full lead water service line replacement mandatory.

Wisconsin regulations prohibit the use of water utility funding on private property.

This policy describes how Lead Service Line Replacement (LSLR) requirements in the Municipal Code will be implemented and how homeowners may receive financial assistance for LSL replacement.

### 3. Authorities

The authority for implementation of the policy are Federal, State, and local regulations described in the following subsections:

Federal Safe Drinking Water Act (SDWA). The SDWA was enacted into law in 1974 to protect the quality of drinking water in the United States. This law gave the USEPA authority to set drinking water quality standards and requires all owners and operators of public water systems to meet these standards. In 1991, USEPA published the Federal Lead and Copper Rule to control lead and copper in drinking water.

Wisconsin Administrative Code Chapter NR 809—Safe Drinking Water. The USEPA has designated the Wisconsin Department of Natural Resources as the “Approval Authority” responsible for oversight of implementation of the SDWA and its rules and amendments in the state of Wisconsin. This code generally repeats the Federal lead and copper regulations.

City of Oshkosh Municipal Code (Ordinance). The LCR gives public water systems authority and responsibility to implement necessary local regulations. Provisions in **Chapter 20 and Chapter 28** of the Municipal Code apply to LSLR and form the basis for the LSLR Policy, including **Section 20-13 Lead Service Line Replacement, Section 20-14 Penalties, and Section 28-10 Private Side Lead Service Line Replacement Financing**.

### 4. Replacement Requirements

The LSL shall be replaced whenever any of the following occurs:

- A. A leak or failure has been discovered on either the private- or public-side of the LSL.
- B. A portion of an LSL is replaced or repaired.

C. A request is made by a property owner to replace the private-side LSL.

The remaining lead portion of the water service line shall be completely replaced within one hundred eighty (180) days of any repairs.

No permanent repairs to the lead portion of a water service line shall be allowed.

## 5. Notice

In the event of a water service line leak, failure, or emergency replacement of the public-side service, the City shall provide written notice to the property owner that replacement of the private-side LSL is required within one hundred eighty (180) days of the notice.

In the event of a planned replacement of the public-side service, the City shall provide written notice of the private-side LSL replacement requirement to the property owner at least thirty (30) days prior to the commencement of the planned replacement of the public-side LSL.

In the event of a water service line leak, failure, or emergency replacement of the private-side LSL, the City is required to replace the public-side LSL within one hundred eighty (180) days of the private-side LSL being completed.

**Please note other timelines may be required to qualify for financial assistance.**

## 6. Exception

The City may, at its discretion, grant a temporary exception to **Section 4**, provided that doing so will not create a threat to the health, safety, or welfare of the public. When considering exceptions, the City may look at factors including, but not limited to: scheduled replacement and/or whether the lateral is in service, as well as any other factors that may be relevant. The maximum time extension shall be one (1) additional year beyond the one hundred eighty (180) days allowed.

## 7. Responsibilities of the City

The City shall:

- A. Create LSL and LSLR database.
- B. Create a voluntary LSL replacement list based upon requests from property owners.
- C. Prioritize replacement of LSLs to maximize efficient use of public funds and minimize potential risks to public health by replacing LSLs in conjunction with water main replacement projects; replacing LSLs at child-care facilities, schools, and locations with high-risk lead services; replacing LSLs from approved property owner requests; and replacing LSLs from completed water main projects where the private-side LSLs were not replaced.
- D. Complete the City's home inspection form or provide form to Licensed Plumber(s).
- E. For planned LSLRs as part of City water main replacement projects, the City shall provide information to private property owners regarding the property owners' responsibilities and resources that may be useful in meeting those responsibilities.

- F. When funds are available to subsidize private-side LSLR and the LSLR meets the eligibility criteria, the City shall:
  - a. Provide to private property owners private-side LSLR financial assistance in accordance with **Section 9** of this Policy. Property owners should contact the Department of Public Works at (920) 236-5258 to determine eligibility.
  - b. Pre-qualify Contractor(s) to perform private-side LSLRs.
  - c. Provide list of pre-qualified Contractor(s) to private property owners.
- G. Provide lead filter devices for temporary use during LSLR work and for a period of six (6) months after the completion of LSLR work.
- H. Provide public information on health risks associated with lead in drinking water and ways to reduce potential risks.
- I. React appropriately to noncompliance with communication, and, if necessary and appropriate, with enforcement as allowed under the Ordinance.

## 8. Responsibilities of Private-Side LSL Owners

Upon receipt of the notice in **Section 5**, or upon approval from the City of a submitted request from the property owner, the private-side LSL owner shall:

- A. Allow the City, or hire a Licensed Plumber, to complete City-approved water service line inspection.
- B. Replace the private-side LSL by contracting with a pre-qualified Contractor. The work shall be performed in accordance with all applicable State and local regulations and utility standards. It is recommended that property owners obtain multiple quotes.
  - a. Property owner must meet and follow all City Eligibility Requirements listed in **Section 9, Financing Private-Side LSLR**, to qualify for financial assistance.
- C. Coordinate, as necessary, to complete timely replacement of a LSL.
- D. Contact the City of Oshkosh Plumbing Inspector for a final inspection in a timely manner.
- E. The property owner is ultimately responsible for hiring the contractor, complying with the financial assistance requirements below, or directly paying the contractor for any work completed.
  - a. Participation in the financial assistance program, if available, is voluntary. Property owners must provide completed copies of all necessary paperwork.
  - b. Costs above \$5,400 are entirely the responsibility of the property owner.

## 9. Financing Private-Side LSLR by City

When designated funding sources are available and within LSLR program eligibility requirements, described below, the City will subsidize the cost of private-side LSLR as follows:

- A property owner may apply for financial assistance from the City for private-side LSLR up to the amounts identified below. Property owners seeking financial assistance must complete all applications and meet the eligibility requirements listed below. Financial assistance will be provided in the form of a private-side LSL loan which shall be a lien upon the property and shall be repaid in installments as a special charge upon each year's annual tax bill.
- City shall provide financial assistance of fifty percent (50%) of the cost to replace the LSL up to a maximum of \$2,700 per LSL replaced.

- Alternatively, property owners who are considered “Low Income”, as established by the U.S. Department of Housing and Urban Development for the year the project takes place, may be eligible for assistance in paying for the private-side LSLR. This assistance may cover one hundred percent (100%) of the cost of the private-side LSLR, but is subject to the City’s annual Federal allocations. To apply for private-side LSLR financial assistance, property owner must submit completed *Lead Service Line Replacement Community Development Block Grant (CDBG) Application* and submit it to the Planning Services Division, 2<sup>nd</sup> floor, City Hall. The property owner must use a current LSLR Pre-qualified Contractor and follow all CDBG requirements.

Eligibility Requirements (Non-CDBG funded LSLR):

- A. Property owners must meet all of the eligibility requirements.
- B. **Service line replacement must be coordinated so the public-side and private-side service line replacement are completed within one hundred eighty (180) days of each other. Failure to meet the 180-day requirement will result in the property not being eligible for financial assistance. The 180-day requirement does not apply to partial service line replacements completed prior to August 8, 2024.**
- C. Private LSL replacement must be approved by the City prior to starting replacement work. To receive approval, the property owner must:
  - a. Complete and submit the current *Financial Assistance Application for Private-Side Lead Service Line Replacement*.
  - b. Complete and submit current *Lead Service Line Replacement Financial Assistance Program Waiver/Release of Liability*.
  - c. Receive confirmation of approval for financial assistance from the City and the *Promissory Note and Covenant* containing terms of repayment. This document must be signed, notarized, and submitted to the City with payment request. Any conditions of approval must be shared with the Contractor and followed to ensure financial assistance eligibility.
- D. Work must be completed by Contractor on the City’s current year pre-qualified LSLR Contractor List. Provide a copy of any approval conditions to your Contractor. All work must follow any conditions of approval.
- E. After completion of work, including final inspections from the City of Oshkosh Inspection Services, the Contractor shall submit the following:
  - a. Completed current *Contractor Payment Application for Private-Side Lead Service Line Replacement*. Please note that the property owner must sign this form.
  - b. Signed and notarized property specific *Promissory Note and Covenant* for the parcel with dollar amounts filled in and initialed by property owner. Maximum loan amount is fifty percent (50%) of cost of LSLR work, up to \$2,700.
  - c. Invoice for work completed
    - i. Invoice must contain the property address where the LSLR work was performed.
    - ii. Invoice must contain an itemized list of the work completed and only pertain to the LSL replacement. Only LSLR costs will be considered/paid.
- F. All work must be done in accordance with all sections of this document.
  - a. Failure to provide necessary documentation or meet the required timelines will result in the City not paying the Contractor, resulting in no financial assistance from the City and the property owner owing the Contractor the full amount.

## **ADDITIONAL RESOURCES**

### **State of Wisconsin**

[www.wisconsin.gov](http://www.wisconsin.gov)

### **Wisconsin State Statutes**

Chapter 64 of the Wisconsin Statutes – Subchapter I City Manager Plan

Chapter 62 Cities

Chapter 66 Municipal Law

Available online at [www.legis.wisconsin.gov/rsb/stats.html](http://www.legis.wisconsin.gov/rsb/stats.html)

### **League of Wisconsin Municipalities**

[www.lwm-info.org](http://www.lwm-info.org)

The League offers a number of useful handbooks and publications including a general Handbook for Wisconsin Municipal Officials

### **UW – Extensions Local Government Center**

[www.lgc.uwex.edu/](http://www.lgc.uwex.edu/)