City of New Berlin
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INVERTS

Policy: Invert Maintenance and Repair
Effective Date: October 1, 1998
Authorization: Common Council

General

Ditching and Inverts are important to insure proper drainage within the City. It is in the City’s interest to help maintain inverts under certain conditions.

Scope and Application

The provisions of this policy will apply to all open drainage facilities within city right of way or drainage easements within the City limits.

Policy

1) Inverts will not be constructed or replaced if the slope of the ditch is greater than 1 1/4% and less than 4%.

2) The City will perform maintenance only on inverts that need to be repaired and meet the minimum/maximum slope requirements as listed in (1).

3) Infill may be done when the slope standards in (1) are met.

4) All maintenance repairs/replacement must meet design infrastructure standards.

5) If the inverts are part of a City driven project required for erosion control or improving drainage, the City will pay all costs except for the end walls and the culvert pipe, which will be the homeowners expense. If an existing driveway culvert pipe needs to be modified and/or replaced as a result of an invert project and all of the following conditions are met, the City will pay all costs associated with such modification and/or replacement.

   A) The existing culvert pipe and end wall are in sound condition
   B) The culvert pipe and end walls are less than ten (10) years old
   C) The culvert and end walls currently in place are in conformance with a city issued culvert permit

6) No new concrete inverts will be constructed except as outlined in (3) above.

7) No asphalt materials are to be used in new or replacement inverts.

8) This policy will be in effect until the Citywide Storm Water Master Plan is adopted by the Common Council.
Water Utility - Outdoor Water Use

Policy: Outdoor Water Use Utility Customers
Effective Date: May 12, 1999
Authorization: Common Council

General

This Policy is created under Ordinance #2075, adopted June 8, 1999, which repealed and recreated Section 13.05 of the Municipal Code relating to regulation of outdoor water use by all customers of the New Berlin Water Utility.

Scope of Application

This Policy restricts Public Water System Customer water use for yard and garden sprinkling under stated conditions, provides for temporary sprinkling permits and exempts private well owners but requires a Private Well Operation Permit per Section 13.09(3) of Municipal Code.

Policy

1. SPRINKLING RESTRICTED - The use of the municipal water system providing service to customers within the City Public Water service area purpose of sprinkling or watering lawns, gardens, shrubs or trees shall be restricted as deemed necessary by the Utility Manager, as follows:

   a) Odd-numbered property addresses are permitted to sprinkle only on odd-numbered days of the month and only between 6:00 p.m. and 8:00 a.m. Odd-numbered day is determined by whatever day of the month it is at 6:00 p.m. and carries through to 8:00 a.m. the following day.

   b) Even-numbered property address are permitted to sprinkle only on even-numbered days of the month and only between 6:00 p.m. and 8:00 a.m. Even-numbered day is determined by whatever day of the month it is at 6:00 p.m. and carries through to 8:00 a.m. the following day.

(2) TOTAL BAN ON OUTDOOR WATER USE - The use of the municipal water system providing service to Customers within the City Public Water service area for any outdoor purpose, including sprinkling or watering lawns, gardens, shrubs or trees; the washing of cars; the filling of swimming pools; and any other outdoor use be totally prohibited whenever the Utility determines that a potential water shortage emergency exists. Should a total ban on outdoor municipal water use be deemed necessary by the Utility Manager, notification to the Customers in the
City Public Water service area shall be published in the official newspaper whenever possible. The television and radio media, as well, shall be notified as to the urgency of a total ban being taken. A total ban takes precedence over Sub. 1 and Sub 3 (after any Temporary Permit expires) of this section.

(3) TEMPORARY PERMIT FOR NEW LAWNS- A temporary sprinkling permit may be obtained from the Water Utility Office for the purpose of sprinkling a confirmed newly-planted lawn which will allow for a temporary exemption from Sub 1 of the Ordinance for a time period not to exceed 14 calendar days. If a permit is obtained, it must be displayed to be plainly visible from the street address side of the building for proper enforcement of this ordinance.

(4) EXEMPTION FOR PRIVATE WELLS - Properties that are connected to the municipal water system but also retain the use of a private well on the premises are bound by Section 13.04 for the use of the municipal water but are not bound by Section 13.05 for the use of the private well for outside use of water. The property owner must register via a current Private Well Operation Permit per Section 13.09(3) of this code, that a private well existing on said property is being used for the purpose of outside water use.
Telephone Guidelines

Policy:
Effective Date: January 27, 1994
Authorization: Common Council

General

Proper telephone etiquette is essential to maintain good relations with our residents.

Scope and Application

The provisions of this policy shall apply to all departments within the City.

Policy

General:

Be polite and courteous, and no matter how busy an employee is, he/she should make the caller feel their call is important. This pertains to external and internal customers.

If an employee calls a department and discovers that the Guidelines are not being followed, discuss it with that employee or responsible department head rather than complaining to other employees. For example, if an employee's phone is not being answered while they are away from their desk, let him/her know because they are probably not aware of it.

When an employee calls another department, that employee should be comfortable advising the answering CDH what their call is regarding. Likewise, if the employee caller tells the CDH it is personal, that should be understood by the CDH with no further questions.

At the end of the day, all external lines must be forwarded to ext. 310 (Voice Mail). External lines are those that begin with the number four (example ext. 441). Exceptions to this guideline apply to those departments that have their own recording and buildings other than City Hall.

Answering Calls:

Phones should never go unanswered whether internal or external.

Phones must be answered by the fourth ring.

All employees must answer the phone the same way, but differently whether it is an internal or external call.

Internal "DEPARTMENT, this is NAME."
External "Good Morning/Afternoon, DEPARTMENT, this is NAME."

The caller should be assisted or directed to someone who can assist.

When receiving calls at the switchboard, the person acting as receptionist will respond to the caller, after the caller states who he/she wishes to speak with, by saying "thank you" or "I'll connect you with the DEPARTMENT NAME."

**Transferring:**

Calls should be transferred to the secretary and not directly to another staff member/manager. This prevents unanswered phones, interrupting meetings, and transferring to the wrong person.

When an employee transfers a call to another department, explain to the department receiving the transferred call, the nature of the call. Don’t just transfer and hang up.

**Covering Phones for Others:**

Employees within each department must stagger lunch hours to cover the phones.

When away from his/her desk, employees must forward their calls, or at least let someone in their department know that they are gone, so that the employee's calls will be answered appropriately.

If an employee is on the phone with a customer and there is no one else in the department to respond to another incoming phone call, please put the customer on hold and briefly respond to the second call. This at least makes the second caller aware of the fact that someone is in the office. Otherwise, there are customers thinking that "no one at City Hall is ever at their desks."

When a department's calls are forwarded to an employee to take messages, that employee should not leave his/her work area during that time to make sure the calls are answered.

The Highway Department's direct line (780-4609) will be published. The department opens at 7:00 a.m. but customers cannot call until 8:00 p.m. via City Hall. During a bad snow situation, other departments will help explain why the Highway Division phones may not be answered.
Take Home Vehicles

Policy: Take Home Vehicles
Effective Date: January 1, 1997
Authorization: Common Council

General

Providing certain employees with vehicles that they can take home reduces that amount of mileage reimbursement required, improves the efficiency of staff, and allows a quicker response to emergencies.

Scope and Application

The provisions of this policy will apply to all employees of the City of New Berlin.

Policy

The following positions are authorized to take home city-owned vehicles:

- Mayor (1)
- Director of Public Works (1)
- Streets Superintendent (1)
- Streets Supervisors (2)
- Fire Chief (1)
- Assistant Fire Chief (1)
- Police Chief (1)
- Police Captain (1)
- Police Officers (3)
- Director of Planning (1)

IRS regulations regarding personal tax penalties for the use of City-owned vehicles will be followed.
Naming of Streets

Policy: Street Names
Effective Date: December 12, 1995
Authorization: Common Council

General
The names used for streets has an important impact emergency service, City residents, and non-resident visitors to the City.

Scope and Application
The provisions of this policy shall apply to future developments when assigning street names.

Policy
The following guidelines will be followed when assigning street names:

1) No two (2) city streets shall have the same name, regardless of the “extension” used. Also, names which sound similar shall be avoided. For example:

   Murry Street, Murry Place, and Murray Parkway
   Horthorne and Hawthorn
   Armour and Armor
   Hansen and Hanson
   Madeline and Adeline

   One exception to this rule shall be permitted: it is acceptable to have a Street and a Court with the same name provided that the court is directly accessible from the street with the same name.
If a street provides access to multiple courts, each court shall have a unique name. Furthermore, once a name is assigned to a court, no other city street will be permitted to share that name. It is NOT acceptable to have a court with the same name on "both" sides of the street.

2) The definition of a court shall be as follows:

A short street ending in a permanent (not temporary) cul-de-sac with a minimum length of 120 feet from the center-line of the street to the center of the radius.

Note: When a street contains a "bulge", the bulge shall not be considered a court. Therefore, the bulge shall retain the street name and suffix.

3) The use of a "direction" in a street name should be avoided if possible, unless the name is needed to differentiate between the two sides of a city dividing line. When used the directional name shall indicate the direction that the street moves "away" from the city center line. For example:

North Lane, West North Lane, W. West Lane, and S. West Lane are examples of actual street names. Similar names should be avoided in the future.

4) All street names and addresses on the streets shall be consistent with the "legal" and/or real estate descriptions of the property. Names shall be consistent throughout the following:

- Police geobase and 911 database sent to phone company
- Official City Street Map
- Real Estate File
- Cadastral Map
- Voter Registration Files

5) In order to simplify computer search procedures, several conventions should be established, including:

- Avoid using hyphens in street names
Avoid using two words in a street name whenever possible (unless there is a historical or memorial significance to the name)

Use consistent abbreviations (as specified by the US Postal Service), or avoid abbreviations for all computer records.

For example:

Mary-Ross Lane should be named Mary Ross Lane
Look Out Lane should be named Lookout Lane
Lane should be abbreviated as LN, not LA,
Street should be abbreviated as ST, not STR

6) All street signs shall match the legal description of the street name.

7) A formal “SEARCH” procedure should be established and followed when establishing names for all new city streets which addresses each of the issues cited above. At a minimum, all street names must be reviewed by the City of New Berlin Engineering, Fire, and Police departments prior to final plat approval.

8) The Common Council shall have the authority to assign or rename a city street for the purpose of creating a “memorial” or an honorary dedication.

9) The Common Council retains the right to change or amend this document in the future.
Use of City Property for Sale of Private Items

Policy:
Effective Date:
Authorization:

Private Sales on City Property
May 23, 2000
Common Council

General

The use of City property should be limited to items and events which benefit all residents of New Berlin.

Scope and Application

The provisions of this policy shall apply to all City owned or controlled property to include, but not limited to City Hall, Public Safety Building, Library, Utilities, Streets, City Parks and Fire Stations.

Policy

No vehicles or items for sale will be displayed on any City owned property except for the normal use of parking lots during the normal course of official business.
Logos on City Vehicles

Policy: Logos on City Vehicles
Effective Date: January 23, 1996
Authorization: Common Council

General

Marking City vehicles with logos help residents identify City employees.

Scope and Application

The provisions of this policy will apply to all vehicles of the City of New Berlin, except Police and Fire vehicles.

Policy

All vehicles owned by the City of New Berlin shall have the City logo placed on them.
1.0 PURPOSE: The purpose of this policy is to define the guidelines for City replacement of private driveway culverts.

2.0 SCOPE: This policy applies to all driveway culverts within City Right-of-Way. It does not apply to culverts installed on property that is not owned by the City.

3.0 POLICY:

3.1 Driveway culverts are the responsibility of the owner of the driveway.

3.2 Driveway culverts may be replaced by the City of New Berlin but only as provided under New Berlin Municipal Code 230-3 and as set forth hereunder.

3.2.1 In the case of a City initiated project for the purpose of improving drainage, the City may elect to replace a driveway culvert or culverts at their discretion.

3.2.2 In the case of a culvert not being properly maintained by the owner and causing a drainage problem, the City may replace the culvert for the public welfare under Section 230-3 C (1) City Municipal Code.

3.3 In the case of a City culvert replacement, authorized and approved under New Berlin Municipal Code 230-3, the owner of the driveway shall be responsible for the cost of materials. The City Stormwater Utility shall be responsible for the cost of labor and machine charges.

3.4 The costs charged to the driveway owner shall be the actual material costs borne by the City. These costs shall be documented and kept in the Streets Department.

3.5 Billing shall be according to Chapter 230-3 C (2), City Municipal Code.

3.6 In the case of a City initiated culvert replacement, the Culvert Permit requirement shall be waived.

3.7 In the case of Section 3.2.2 above, the following will apply:

3.7.1 The City shall notify the property owner in writing that replacement of their driveway culvert is required and the reason shall be noted.
3.7.2 If the homeowner does not replace the culvert or adequately show that replacement is scheduled within a ten day time period, the City shall send a second written notice.

3.7.2.1 The second notice shall state the following:

3.7.2.1.1 Replacement is being scheduled.

3.7.2.1.2 The homeowner will be charged the entire cost of replacement, including materials, labor and machine charges. This amount shall be stated.

3.7.2.1.3 The homeowner may still contact the City regarding their plans to replace the culvert within five days.

3.7.3 If the City must proceed with the culvert replacement, the homeowner shall be responsible for the cost of materials, labor and machine charges. These costs shall be documented and kept in the Streets Department.

3.7.4 Section 3.5 and 3.6 apply.
Curb and Gutter

Policy: Curb and Gutter
Effective Date: August 25, 1992
Authorization: Common Council

General

Curb and Gutter, while desirable for new subdivisions, is not a requirement for proper drainage.

Scope and Application

The provisions of this policy will apply to all areas within the City of New Berlin that were constructed with open ditches without curbs or gutters.

Policy

Any subdivision requesting curb and gutter will be assessed 100% for the work associated with the installation to the benefitted properties. Additionally any existing property requesting curb and gutter as part of a new application to adjacent property would be 100% assessed.

Clerk/UI/policies/curb-and-gutter
E-Mail Forward Policy

Effective Date: June 25, 2002
Authorization: Common Council

Scope and Application

The provisions of this policy shall apply to all City e-mail accounts of staff, elected officials, and volunteers.

Policy

The Aldermen, Mayor and City Attorney may choose to have their @newberlin.org mail forwarded to another account or to access their account via the Internet. E-mail will NOT be forwarded for any users except Aldermen, Mayor or City Attorney.

If e-mail is forwarded the user is responsible for virus protection. The city's e-mail server will not scan a forwarded message from an external source for viruses.

E-mail message retention is the responsibility of the user – forwarded or regular account. If requested under the Wisconsin Open Records laws, City IT staff will provide e-mail messages in the users Inbox, Deleted Items (not permanently deleted) or folders as required by law. Messages sent to forwarded e-mail accounts are never saved on the City's system. Therefore, users with forwarded e-mail accounts are responsible for complying with public record requests within the specified time frame.

Background

The City implemented Exchange 2000 for most e-mail in 2001. The IT Department anticipated all off-site users would access e-mail via the Internet. Some Aldermen felt this new procedure was an inconvenience. IT staff began forwarding e-mail messages to personal accounts.

Messages are scanned for viruses as they are processed in the server. Messages from external sources sent to forward accounts do not go through the same process and therefore are not scanned for viruses, just forwarded. If e-mail is forwarded, the user must bear the responsibility for virus protection on their machine. The virus software currently used by the City cannot scan messages from external sources that are forwarded.

Unless specifically exempt by Wisconsin Statute, all electronic mail is subject to the open records provisions of the Wisconsin State Statutes. E-mail forward accounts are not accessible to IT staff. If a public records request is received, the user must supply e-mail information in the requested format within the specified time limit. This may include providing a hard drive from the personal computer normally used for e-mail access.
Neighborhood Meetings Held by Council Members

Policy: Neighborhood Meetings
Effective Date: May 23, 2000
Authorization: Common Council

General

Interaction between Council Members and the residents they serve facilitates understanding and communication between all parties.

Scope and Application

The provisions of this policy shall apply to all Common Council members.

Policy

The staff of the City of New Berlin will assist all Council members with Neighborhood or District meetings as they are needed to include notice preparation and mailing, exhibit preparation, room set-up, and attendance if required. When an official becomes a candidate for public office these opportunities will no longer be allowed.
Use of City Hall Facilities

Policy:  
Effective Date:  
Authorization:  

City Hall Usage  
June 13, 2006  
Common Council

General

The purpose of this policy is to establish rules and guidelines for the use of City Hall meeting areas.

Scope and Application

The provisions of this policy shall apply to the City Hall Facilities which include but are not limited to the Common Council Chambers, Atrium, and Conference Rooms A and B. Use of City Hall Facilities is intended to permit governmental entities to provide information to the public.

Policy

Local elected and appointed officials as well as City staff and Federal legislators whose district includes the City of New Berlin may use the City Hall for meetings with their constituents provided the room is reserved with the City Clerk’s office. The use of City Hall facilities shall be subject to the following requirements:

1) Use is limited to hours when the building is open. Evening hours are allowed during periods when regularly scheduled meetings are held but use under this policy ends when the meeting ends.
2) The City will not furnish equipment, supplies, or materials.
3) Sales of any kind are prohibited as well as admission charges for meeting rooms.
4) Only light refreshments may be served (coffee, soda, etc.).
5) No smoking is allowed in City Hall.
6) Furniture must be returned to its original position at the end of the meeting.
7) All users shall reserve their room use with the City Clerk’s Office, shall insure building security when their meeting is completed, and shall clean up all areas used.

The City Clerk or his/her designee shall make the determinations of room use; however, in the event an applicant objects to the determination of the City Clerk or his/her designee, appeals of this determination may be filed with the Mayor with ultimate review being provided by the Common Council.
Effective Date and Consistencies with Other Policies

This policy statement shall become effective upon adoption by the Common Council and will thereafter supersede any existing policies to the contrary.

Room Availability

City business will take precedence and rooms will be made available on a space available basis. The City reserves the right to withdraw previously granted approval as City business demands. The City reserves the right to approve or deny a particular use of the facilities consistent with this policy and the protection of the public health, safety, and welfare.

Prohibited Uses

Uses of the facilities which are prohibited include, but are not limited to, the following:

A. Any purpose which in the opinion of the City Clerk and/or Common Council may interfere with the use of City Hall.
B. Fundraising purposes, sales and for profit activities.
C. Programs whose purpose is to sell advertising and promotional products or services.
D. Return engagement by a group or organization that has made any abuse of the facilities or regulations in an earlier use of City Hall.

Miscellaneous

The City reserves the right to limit the size of groups based upon the capacity of the facilities and to protect the public health, safety and welfare.

No hazardous materials such as highly flammable or toxic materials are permitted in the building.

No endorsement. The fact that a group is permitted to use the facilities does not in any way constitute endorsement of the group’s policies, positions, or beliefs on the part of the City.

Damage to property. The City will assume no responsibilities for damaged materials or equipment owned by the group using the facilities.
Contracts relating to the Fourth of July

Policy: July 4 Contracts
Effective Date: June 12, 1997
Authorization: Common Council

General

The Common Council must approve all contracts but is allowed to delegate that authority if there is a special need.

Scope and Application

The provisions of this policy shall apply to all required contracts for the Fourth of July celebration held each year.

Policy

The Director of Parks and Recreation is authorized to execute all Fourth of July contracts on behalf of the City providing all insurance and legal issues are properly addressed.
Candidate for Public Office

Policy: 
Effective Date: 
Authorization: 

Definition of Candidate
June 13, 2000
Common Council

General

Numerous policies of the City of New Berlin refer to a “Candidate for Public Office”. This policy will define that term.

Scope and Application

The provisions of this policy shall apply to all other policies and procedures used within the City of New Berlin.

Policy

The following criteria shall be used to determine when a person shall be considered a Candidate for Public Office. A person meeting any one of the following will be so classified.

1. Filing of nomination papers
2. Circulation of campaign related literature
3. Establishment of campaign accounts.
4. Solicitation of campaign funds.
5. Public announcements.
Cable TV Revenue Reserve

Policy:
Effective Date:  October 08, 2002
Authorization: Common Council

General

Cable TV revenues are paid to the City by the Cable carrier as a percentage of their gross earnings. These revenues are paid by the residents of New Berlin who subscribe to the cable service.

Scope and Application

The provisions of this policy will apply to all budgets of the General Fund of the City of New Berlin.

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Policy

Every year in the General Fund Operating Budget $160,000 will be budgeted as a revenue from Cable TV. Any amounts received over the budgeted amount will be placed in the Cable Fund under the control of the Technology Committee for items used for or relating to the broadcast of City events on Cable TV.

Policy

Every year, the Fund Balance in the Cable TV Revenue Reserve will be maintained at $50,000. Any excess in Cable TV franchise fees will be budgeted in the General Fund Operating Budget as a revenue for Cable TV. The Technology Committee will recommend the expenditure of funds for items used for, or relating to the broadcast of City events on Cable TV.

approved 8-02
Meetings Broadcast on Cable TV

Policy: Broadcast of Meetings
Effective Date: May 26, 1998
Authorization: Common Council

General

Broadcasting meetings on Cable TV assists residents gain access to Local Government

Scope and Application

The provisions of this policy will apply to all meetings held in the Common Council Chambers.

Policy

All meetings held in the Common Council Chambers will be broadcast live on Cable, be recorded for later broadcast, and copies forwarded to the Library for checkout by residents.
Road Improvements

Policy:

Effective Date: August 25, 1992
Authorization: Common Council

General

Road improvements benefit everyone in the community.

Scope and Application

The provisions of this policy will apply to all areas within the City of New Berlin.

Policy

No special assessments will be levied for road improvements for either overlays or major repair or reconstruction for roads.
Installation of Software on Personal Computers

**Policy:**

**Effective Date:**

**Authorization:**

PC Software Installation
May 23, 2000
Common Council

**General**

Use of software by City employees is necessary to proper completion of their duties but all laws governing ownership must be obeyed.

**Scope and Application**

The provisions of this policy shall apply to all personal computers and users within the City of New Berlin.

**Policy**

No software is to be copied from one personal computer to another. All software installations must be approved by the Director of Information Systems (DIS) or his designate. Any department or employee requesting additional software is to contact the DIS for installation and/or purchase of software.
1.0 PURPOSE: The purpose of this policy is to define the qualifications and practices for the installation of an enclosed drainage ditch.

2.0 SCOPE: This policy applies to all open drainage facilities within Right-of-Way and easements of the City of New Berlin. This policy does not apply to storm sewer installation.

3.0 POLICY:
   3.1 Qualifications of the Existing Ditch Line. All requirements below must be met in order to qualify for an enclosed ditch project.
      3.1.1 Depth of the ditch must be a minimum of three feet measured from the edge of the road pavement in the most shallow section of the ditch line.
      3.1.2 Side slopes of both front and back slope must be steeper than 3:1 at the most gently graded section of the ditch line.
      3.1.3 Engineering data noted above must be obtained from a professional engineering firm and performed at the expense of the resident requesting the ditch enclosure.
      3.1.4 There is to have been no new construction/improvements performed in this specific drainageway 5 years prior to the onset of this project.
      3.1.5 100% of the subwatershed residents must be informed and approve of the project. Proof of their knowledge and approval of the pending project must be supplied with the Engineering Data to the City.
      3.1.6 The information required above is subject to the review of the City Engineering Department and subsequent approval or disapproval.
Stormwater Policy Number: 21-02-002
Enclosed Ditch Policy
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3.2 Engineering design Requirements.

3.2.1 Hydraulic capacity: The pipe must be sized for a 25 year recurrence interval for the post developed condition.

3.2.2 Existing natural drainage patterns must be maintained.

3.2.3 MMSD Chapter 13 discharge requirements must be met.

3.2.4 Road bed underdrains must be installed at the edge of pavement and connected to the enclosed pipe. See City Developer’s Manual for Specifications.

3.2.5 Any applicable Wisconsin DNR requirements must be met.

3.2.6 A minimum of 12 inches of cover is required.

3.2.7 If the length of pipe is greater than 100 ft, or if the pipe direction changes at any point, catch basin clean-outs will be required.

3.2.8 When there is two feet or greater cover, a reinforced concrete pipe must be used. Corrugated metal pipe will not be allowed.

3.2.9 A drainage swale shall be constructed along the roadway in the ditch area to carry surface runoff to the inlets. A minimum cross slope of 4% shall be maintained from the edge of pavement to the flow line of the drainage swale. The pipe shall be placed so that the drainage swale does not encroach into the minimum cover distance.

3.2.10 City design infrastructure standards must be met. See Developer’s Handbook.

3.2.11 All design information noted above must be performed by a Professional Engineering firm at the expense of the resident requesting the ditch enclosure.

3.2.12 The City may, at its discretion, choose to perform the design in lieu of the resident hiring a Professional Engineering firm.

3.2.13 All design information noted above is subject to the review of the City Engineering Department and subsequent approval or disapproval.

3.3 Construction

3.3.1 Construction costs for work performed by the City will be the responsibility of the resident.

3.3.2 Construction may be contracted out by a resident as long as the following requirements are met:

3.3.2.1 The resident is responsible to the contractor for complete payment of the cost of installation.

3.3.2.2 The contractor/resident must obtain permission to work within the City Right-Of-Way.

3.4 Maintenance

3.4.1 Maintenance of the enclosed ditch is the responsibility of the City of New Berlin.
Government Access Channel

Policy: Government Access Channel Usage
Effective Date: May 23, 2006
Authorization: Common Council

General

The Government Access Channel (City Channel 25) is the government and public access cable station for the City of New Berlin and its residents. It is the goal of the City that this channel provide a window on local government, as well as to inform and educate the public about local government, and to provide public service information to residents and to disseminate information to them regarding the activities of all governmental bodies of the City, and in general to increase the knowledge of the residents of the various functions performed by City government.

Scope and Application

Governmental access programming shall provide direct information to residents concerning their City government.

Policy

All public meetings of New Berlin Governmental bodies are authorized for broadcast coverage on a gavel-to-gavel basis.

All City departments may request broadcast programming whose scope and content is consistent with the statement above. All material to be shown shall be provided to the office of the City Clerk, or his/her designee, who will preview the broadcast and determine its suitability for showing on the government access channel.

Announcements of governmental events and messages will be accepted from any City department for display on the Government Access Channel.

Under no circumstances shall any broadcast on the Government Access Channel contain content inclusive, in whole or in part of the following:

a. Programming which promotes or conducts any commercial lottery, raffle contest or a game involving prizes awarded in whole or in part by lot or chance.

b. Any content which is obscene as defined by FCC Title 47 Telecommunications Document Section 73.4165 and 73.4170, or such that an average reasonable person applying
contemporary community standards would find that the work taken as a whole appeals to the prurient interest.

c. The program solicits funds or other property of value from viewers.

d. The program promotes the sale of products or services including prices or promotes to endorse a trade or business.

e. Programming which contains copywrited materials for which a license has not been obtained. Any material which is intended to defraud the viewer or design to obtain by false or fraudulent pretenses, representations or promises. Any programming which contains obscenities or fighting words, defamation, libelous statements and speech which creates a clear and present danger of imminent lawless action. No programming shall violate any applicable federal, state, county or municipal statutes, rules, ordinances or regulations.

All materials submitted for broadcast on the Government Access Channel shall be provided to the City Clerk or his/her designee at least ten (10) business days prior to the intended date of airing, so as to enable the Clerk to conduct an evaluation of the materials to determine compliance with the policy set forth herein.

The City Clerk shall maintain a tracking sheet to keep a log of programming broadcast on the Government Access Channel.
I. PURPOSE

To allow the City to acquire, on a competitive basis, all goods and services at the best value possible and operate in a manner that maximizes the effectiveness and efficiency of services provided by the City.

II. POLICY

The City of New Berlin, as a local governmental entity, needs to ensure that the expenditure of public funds occurs in a manner that balances the desire for lowest cost to the City with an expectation of a quality product. The purpose of this policy is to provide guidance and procedures to be followed for procurement of goods and services for all City departments within the scope of the City Code and the Wisconsin Statutes. The controls and procedures set forth are intended to provide reasonable assurance that the lowest cost, highest quality good or service is obtained, while balancing the need for flexibility in department operations. This policy covers items that have been included in the city budget as approved by the Common Council; any items not included in the budget require specific approval by the Finance Committee and/or applicable board, commission, or committee prior to purchase.

The purpose of the purchasing program is to enable departments to acquire needed equipment, materials, supplies and services of suitable quality for the purpose intended from the lowest priced responsible and responsive bidder while enhancing competition and providing fair opportunity and equitable treatment for all vendors.

This will be accomplished by utilizing a combined effort between City departments and the Mayor. The Mayor will concentrate efforts on standardizing and centralizing purchases of common use items among all departments while enlisting individual department's expertise in purchasing specialized items unique to their departments. When purchasing these specialized items, the individual department becomes responsible for ensuring that the provisions of this policy are followed.

The policy pertains to all agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.
III. DEFINITIONS

Auction Administrator. An individual assigned by the Mayor to assist departments in selecting an auction type and venue, establish procedures and responsibilities, and conduct online auctions for the sale of surplus supplies or equipment.

Bid. A formal price solicited from a vendor for a good or service. Bids are required to conform to specific terms and well defined specifications contained in the solicitation documents. A sealed written bid is required with public notice setting a specific time and place to open all bids received for any project defined as public construction.

City. The City of New Berlin, WI.

Contract. An agreement between 2 or more parties to do something or provide specific goods or services.

Contract Cost. Total cost of a contract, whether for one or more years.

Contractual Services. Includes, but may not be limited to: telephone, gas, water, electric light, power and heating services; towel and cleaning services; leases for grounds, buildings, equipment, office or other space required by the using department; and the rental, repair or maintenance of equipment, machinery or other property owned by the City.

Council. The Common Council of the City of New Berlin

Department. All agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

Invitation For Bid (IFB). The documents used to solicit bids from vendors.

Mayor. The Mayor or his/her designee. (Department Head)

Professional Services. Services, the value of which are substantially measured by the professional competence of the persons performing them and which are not susceptible to realistic competition by cost alone. Such services include, but shall not be limited to those customarily rendered by architects, engineers, surveyors, real estate appraisers, certified public accountants, attorneys, financial advisors, medical and social service providers, computer software applications, systems development/implementation, management and other consultants, promotional programs such as marketing and advertising, and such other specific services as determined by the Mayor.

Professional Services Qualifications (PSQ). All documents, whether attached or incorporated by reference, used for soliciting statements of qualification for professional services.

Proposal. A plan received from a vendor and the related cost of implementing the plan. Proposals are usually requested when the specifications or scope of the services needed cannot be adequately prepared to provide all prospective vendors a complete and accurate description of the work to be performed. Vendors are asked to propose their best solution to the needs defined in the solicitation. Proposals are often requested when soliciting costs for professional
services, high-tech equipment, other specialized equipment and research and development expenditures.

_Public Construction._ Substantial repairs, remodeling, construction or improvement of a public work or building (Wisconsin Statute Section 66.0901 & Section 62.15)

_Quotation._ An informal type of bid received from a vendor offering to sell a product or service. The quotation will contain specified pricing, terms and conditions of sale. The quotation may be either in writing (including a price list or catalog) or verbal, depending upon the dollar value as outlined in IV.C (2) (3).

_Request for Proposal (RFP)._ All documents, whether attached or incorporated by reference, used for soliciting proposals for professional services.

_Request for Quotations (RFQ)._ A written request for informal bids or quotes.

_Service._ The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than usual reports, materials or drawings which are the end result of and incidental to the required performance.

IV. PROCEDURES

A. PURCHASING MANUAL

The Finance Department shall prepare and maintain a Purchasing Manual setting forth the authorized purchasing procedures and the rules and regulations in connection therewith which shall be approved by the Finance Committee.

B. DEPARTMENT SPECIFIC PURCHASES

In order to take advantage of the technical expertise within the various City Departments, department personnel will have the authority to purchase specialized items unique to their operations. The Mayor will be available to serve in an advisory capacity. However, if the department wishes, the responsibility for the purchase of these specialized items may be turned over to the Mayor. Certain departments employ individuals whose duties include routine purchasing of non-specialized goods and services. These individuals retain such authority at the discretion of the Department Head and the Mayor, and shall execute their purchasing responsibilities in accordance with all provisions of this policy and under the general oversight of the Finance Department. The individual coordinating the purchase will be responsible for ensuring that all provisions of the procurement policy are followed. Upon request of the Finance Director, departments will furnish copies of quotes and other documentation to show compliance with the procurement policy.

If a question arises over the categorization of a purchase as specialized or non-specialized, the Mayor will make the final determination.
C. PURCHASING AND CONTRACTING LEVELS

"Purchases of and contracts for supplies, materials, equipment and contractual services shall be made in the best interest of the City according to the spending guidelines in this policy. While the policy encourages bid pricing, sole source purchases may be made without competition when only one sole source is available or there is a valid reason to purchase from one source. Sole source purchases must be agreed upon in advance between the department and the Mayor. The reason for the sole source purchase must be documented and retained on file by the department. For all purchases the Mayor reserves the right to coordinate the purchase of like items where such purchase is beneficial and practical.

(1) Purchases of $500 to $15,000 require the solicitation of two or more quotes, except as section IV.D applies, which may be written or verbal, but documented in either case. When verbal quotes are received, all pertinent details of the quote should be documented in writing by the department and retained on file.

(2) Purchases of $15,000 or more (other than Public Works Construction Projects) require a minimum of two written quotations be solicited. Any new contracts or agreements for services or equipment with an anticipated contract cost of $15,000 or more require the approval of the Mayor prior to execution.

(3) Public Works Construction Projects. In accordance with Wisconsin Statute 62.15 & 66.0901, all such projects or materials for such projects, the cost for which is expected to be greater than $25,000 must be competitively bid. The City Attorney, or his/her designee will determine the applicability of this statute to individual projects.

The bidding and awarding processes are detailed in Wisconsin Statute 66.0901. All public works bids and staff recommendations will be submitted through the commission, board or committee with jurisdiction over the issue, for Common Council approval.

D. STANDARD CONTRACTS

When the Finance department has standardized the purchasing of a good or service and has issued standard purchase orders or contracts for these goods or services, such goods or services shall be purchased from the agreed upon vendor for the length of the agreement. The standard contracts will usually be let on an annual basis. Exceptions will be made only when the requisition clearly states the reason for which the standard item is unacceptable.

E. COOPERATIVE PURCHASING

The Mayor shall have authority to join with other units of government, with quasi-government agencies funded in whole or in part by the City, and with other purchasing associations in cooperative purchasing plans when the best interest of the City would be served. Competitively bid cooperative purchasing contracts onto which the City “piggybacks” are considered to have met competitive requirements, and no additional quotes are necessary. Additionally, if identical projects can be obtained at a lower price than current cooperative purchasing contracts, no additional quotes are required.
F. PURCHASING FROM GOVERNMENT UNITS

Materials, supplies, machinery and equipment offered for sale by the federal or state government or by any municipality may be purchased without bids at prices to be agreed upon between the Mayor and the respective department for which the item is to be acquired. Expert assistance for appraisal of such items may be employed at the discretion of the Mayor.

G. EMERGENCY PURCHASES

Any City department or agency may purchase in the open market, without filing a requisition or estimate, or receiving competitive bids, any supplies, materials or equipment for immediate delivery to meet emergencies arising from unforeseen causes. The following situations constitute an emergency under this provision of the policy:

1. any situation in which there exists immediate and substantial danger to the health, life or property of any person or any situation in which there exists potential for increased damage to City property if the situation is not immediately remedied;

2. Any situation where the normal operation of any City department or Agency is seriously impaired or is in jeopardy of being seriously impaired; or

3. When the Mayor or Department Head declares an emergency.

H. PURCHASE OF RECYCLED MATERIALS

The Mayor will ensure that the average recycled content of all paper purchased by the City measured as a proportion, by weight, of the fiber content of all paper products purchased in the year is not less than those percentages specified in Wisconsin Statute 66.0131 (3) (a) (2).

I. PURCHASE ORDERS

Purchase orders will be required for all purchases of goods and services unless such payment is covered by an existing contract or other agreement.

J. SERIAL CONTRACTING

No contract or purchase shall be subdivided to avoid the requirements of this policy. Serial contracting is the practice of issuing a series of purchase orders to the same vendor for the same commodity or service in any 90-day period in order to avoid the requirements of the procurement policy.

K. APPROPRIATIONS

All purchases shall be made in accordance with the appropriations (budget) that have been approved by the Council for the operation of the respective City departments. The responsibility for not exceeding existing appropriations rests with the department head making the requisitions or purchases.
L. LOWEST RESPONSIBLE BIDDER AND BEST VALUE CONCEPT

All open market orders or contracts shall be awarded to the lowest priced, responsive and responsible bidder taking into consideration the following factors: the qualities of the articles to be supplied; conformity with specifications; product compatibility; maintenance costs; vendor support after the purchase, the ability and qualifications of the vendor to perform the contract, and delivery terms.

(1) If two or more qualified bids are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. Where this is not practical, the contract will be awarded to one of the bidders by drawing lots in public.

(2) The Mayor along with the City Attorney, or his/her designee shall have the authority to require a performance bond or other similar instrument of surety in such amount as is reasonably necessary to protect the best interest of the City before entering into a contract. Notwithstanding the foregoing, performance and payment bonds in the full amount of the contract shall be required for all public construction contracts in accord with Wis Stat Sec 779.14.

(3) Contracts must be approved as to form and sufficiency by the City Attorney or his/her designee, and routed for signatures in accordance with the City of New Berlin Contract Routing policy.

M. PROCUREMENT OF SERVICES

Whenever practical, the purchase of all services should be based on competitive bids/quotations/proposals subject to the spending guidelines noted in Procedure IV (C) of this policy. This includes, but is not limited to, the following categories of services:

Professional Services. Consulting and expert services provided by an organization or individual.

Contractor Services. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than those that are the end result of and incidental to the required performance.

Client Services. Those services provided directly to individuals on behalf of the City.

Construction Services. Services provided in the construction of roads, buildings or other facilities.

Technology Services. Services provided in the design, development, installation, and/or operation or maintenance of automated computer systems, including hardware and software.

If it is estimated that the service being solicited has a total cost of over $15,000 and the value of the service is substantially measured by the professional competence of the providers rather
than cost alone, it is recommended that a Request for Proposal (RFP) or Professional Services Qualifications (PSQ) be used to solicit vendor responses.

N. PROHIBITED BUSINESS TRANSACTIONS

(1) Employees are not allowed to participate directly or indirectly in a purchase when the employee, or a member of the employee's family, has a financial interest in the purchase or the employee, or a member of the employee’s family, is negotiating or has an arrangement concerning prospective employment with the supplier, or the action is otherwise contrary to the terms of the City’s Ethics Ordinance or applicable Wisconsin Statutes.

(2) Purchases for services or goods should not be made from employees of the City unless the employee can be considered an independent contractor as defined by the Internal Revenue Service.

(3) Employees of the City are not allowed to use City negotiated discounts or the City’s tax exempt status to purchase goods or service for their own personal use or gain.

(4) The City of New Berlin Code of Ethics Policy shall be referenced regarding receipt of gifts. Employees who receive offers of gifts or other improper attempts to influence purchasing decisions should report this to their supervisor and/or the Mayor, who will in turn consult with the City Labor Counsel, or shall submit the matter to the City’s Ethics Board for an advisory opinion to determine the appropriate course of action.

O. SURPLUS OR OBSOLETE SUPPLIES OR EQUIPMENT

Disposal of City-owned supplies or equipment that are no longer required or serving a useful purpose shall be handled in a manner that is:

- economically feasible;
- in compliance with all applicable laws, regulations and policies;
- environmentally responsible; and
- deemed to be in the best interest of the City.

Departments should contact the Mayor for assistance in determining the most appropriate and beneficial method of disposal. There are several approved methods for disposal of surplus, including:

1) A live auction conducted by the City or other agency;
2) Internet-based auctions or selling tools (i.e. eBay);
3) Sale to the general public via advertised, sealed bidding;
4) Trade-in on new supplies or equipment;
5) Transfer to another City department;
6) Donation to approved non-profit organizations;
7) Sale, trade, transfer or donation to an outside publicly funded agency;
8) Recycling and/or sale as scrap;
9) Discarding as trash; and
10) Other methods which may be approved on a case by case basis by the Finance Committee and Common Council.

Which method of disposal is most appropriate will depend upon several factors, including:

- The condition, location and physical characteristics of the item(s);
- The amount of time, effort, administration and expense required for the method relative to the potential value received;
- The public benefits and/or liabilities associated with the method.

The City will assign one or more Auction Administrators to facilitate sale by auction when appropriate. He or she shall assist departments in selecting an auction type and venue, establish procedures and responsibilities and conduct online auctions.

Disposing of items or groups of items with an estimated value of $500 or more using methods other than 1 through 5 in the approved methods list above shall require approval of the Finance Committee and Common Council.

For items or groups of items with an estimated value of less than $50, departments may, at their discretion, utilize any of the approved methods listed, provided the disposal meets the general criteria listed at the beginning of this section. For estimated values over $50, departments should contact the Mayor or his/her designee for assistance in determining the most appropriate and beneficial method of disposal.

All proceeds received from the sale of City surplus property shall be reported and delivered to the Accounting Manager of the Finance Department for deposit and application to the proper account(s).

City owned supplies or equipment will not be taken by, given to, or sold to City employees except by public auction or competitive bidding, regardless of their apparent value or condition, unless a specific exception is granted by the Common Council.

P. INSURANCE REQUIREMENTS

A vendor’s Certificate of Insurance is required in conjunction with many contracts for services or goods. A valid certificate must be received and approved by the City Clerk prior to executing or beginning performance under the contract. Employees can check if a vendor has a Certificate of Insurance on file by contacting the City Clerk and City Attorney. Additionally, employees should consult with the City Clerk when developing RFP’s and IFB’s to determine the appropriate levels of insurance and include the requirements as part of the solicitation documents. The form and content of the insurance certificate may be determined in consultation with the City Attorney’s Office.

Q. OPEN RECORDS / PUBLIC INFORMATION

With few exceptions, records related to governmental purchasing are subject to public access under Wisconsin’s Open Records Law. This includes, but is not limited to, quotes, bids,
proposals, purchase orders and related correspondence. While employees may ask that open records requests be made in writing, the requestor is not required to do so.

(1) When conducting public bid openings, the names of the bidders and certain bid details, including price shall be read aloud. In the case of proposal (RFP) openings, only the names of the proposers shall be read aloud. In either case, copies of the bids or proposals are not made available, nor is inspection of the documents permitted, until contract award has been submitted for approval to the Committee of Jurisdiction.

(2) Vendors requesting confidentiality of their quotes, bids, proposals or portions thereof must identify the confidential materials as such and state the specific, legitimate reason(s), i.e. trade secret, propriety customer list.

(3) Questions regarding compliance with an open records request should be referred to the City Attorney or his/her designee.

R. INFORMATION TECHNOLOGY RELATED EQUIPMENT AND SUPPLIES

In order to ensure compatibility and maintain standards for the City’s information systems, all purchases of information technology equipment, supplies and services must be initiated by and acquired through the Technology Services Department. This includes, but may not be limited to, computers, software, printers, copiers, inks, toners, repair parts, support and maintenance services, telephone equipment, scanners or any peripheral device which interfaces with any part of the City’s information systems.

Technology Services staff should be the primary vendor point of contact for all information technology needs. In turn, the Technology Services Department is responsible for adhering to the provisions of this policy when conducting such procurement activities.

S. LOCAL PROCUREMENT

Since there are often cost and service related advantages associated with buying from local sources, the Common Council has adopted the following resolution:

“Resolved, that where not prohibited by law, the City of New Berlin include in the evaluations of all bids, proposals and quotations for goods and/or services (except public construction) where the value of such goods or services is expected to exceed $5,000, evaluation criteria which favorably and accurately assess the relevant cost and service advantages of procurement from local sources. Where point based systems are used for proposal evaluation and award, the points available for this purpose shall be determined prior to proposal opening and shall not exceed 5% of the total points available.”

The Finance Director is available to assist Departments in applying this policy resolution to specific procurement situations.
Posting Items At City Hall and on City’s Cable Channel 25

Policy: Posting Items at City Hall
Effective Date: February 15, 2001
Authorization: Common Council

General

Posting of information at City Hall and on the City’s Cable Channel 25 is one of many ways the public can be informed about current and upcoming issues. It is in the City’s interest to maintain these in a manner that eliminates unnecessary clutter so information is easily understood.

Scope and Application

The provisions of this policy will apply to all areas within City Hall, the City’s cable Channel 25 as well as the grounds surrounding the building.

Policy

Nothing will be posted in City Hall or on Channel 25 except items directly relating to business conducted by a City Department.
Post-Issuance Compliance Policy for Tax-Exempt and Tax-Advantaged Obligations

![](image)

Adopted: July 24, 2012

Statement of Purpose

This Post-Issuance Compliance Policy (the “Policy”) sets forth specific policies of the City of New Berlin, Wisconsin (the “Issuer”) designed to monitor post-issuance compliance of tax-exempt obligations or tax-advantaged obligations (“Obligations”) issued by the Issuer with applicable provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations promulgated thereunder (“Treasury Regulations”).

The Policy documents practices and describes various procedures and systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations continue to be eligible to be excluded from gross income for federal income tax purposes or that the Obligations continue to receive tax-advantaged treatment. The federal tax law requirements applicable to each particular issue of Obligations will be detailed in the arbitrage or tax certificate prepared by bond counsel and signed by officials of the Issuer and the post-closing compliance checklist provided by bond counsel with respect to that issue. This Policy establishes a permanent, ongoing structure of practices and procedures that will facilitate compliance with the requirements for individual borrowings.

The Issuer recognizes that compliance with applicable provisions of the Code and Treasury Regulations is an on-going process, necessary during the entire term of the Obligations, and is an integral component of the Issuer’s debt management. Accordingly, the analysis of those facts and implementation of the Policy will require on-going monitoring and consultation with bond counsel and the Issuer’s accountants.

General Policies and Procedures

The following policies relate to procedures and systems for monitoring post-issuance compliance generally.

A. The Finance Director (the “Compliance Officer”) shall be responsible for monitoring post-issuance compliance issues.

B. The Compliance Officer will coordinate procedures for record retention and review of such records.

C. All documents and other records relating to Obligations issued by the Issuer shall be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable Internal Revenue Service (“IRS”) requirements, such as those contained in Revenue Procedure 97-22.
D. The Compliance Officer shall be aware of options for voluntary corrections for failure to comply with post-issuance compliance requirements (such as remedial actions under Section 1.141-12 of the Regulations and the Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program) and take such corrective action when necessary and appropriate.

E. The Compliance Officer will review post-issuance compliance procedures and systems on a periodic basis, but not less than annually.

Issuance of Obligations - Documents and Records

With respect to each issue of Obligations, the Compliance Officer will:

   A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").

   B. Confirm that bond counsel has filed the applicable information report (e.g., Form 8038, Form 8038-G, Form 8038-CP) for such issue with the IRS on a timely basis.

   C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations with other applicable staff members of the Issuer.

Arbitrage

The following policies relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

   A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript.

   B. Confirm that a computation of the yield on such issue from the Issuer's financial advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.

   C. Maintain a system for tracking investment earnings on the proceeds of the Obligations.

   D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.
E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations.

F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.

G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.

H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.

I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts.

J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.

K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.

L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.

M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

Private Activity Concerns

The following polices relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

A. Maintain records determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility.

B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.

D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.

E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:

1. Sale of the facilities, including sale of capacity rights;

2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;

3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;

4. Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot);

5. Joint-ventures, limited liability companies or partnership arrangements;

6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users);

7. Development agreements which provide for guaranteed payments or property values from a developer;

8. Grants or loans made to private entities, including special assessment agreements; and


Monitoring of private use should include the following:

1. Procedures to review the amount of existing private use on a periodic basis; and

2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

If the Compliance Officer identifies private use of facilities financed with tax-exempt or tax-advantaged debt, the Compliance Officer will consult with the Issuer’s bond counsel to
determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

Qualified Tax-Exempt Obligations

If the Issuer issues “qualified tax-exempt obligations” in any year, the Compliance Officer shall monitor all tax-exempt financings (including lease purchase arrangements and other similar financing arrangements and conduit financings on behalf of 501(c)(3) organizations) to assure that the $10,000,000 “small issuer” limit is not exceeded.

Federal Subsidy Payments

The Compliance Officer shall be responsible for the calculation of the amount of any federal subsidy payments and the timely preparation and submission of the applicable tax form and application for federal subsidy payments for tax-advantaged obligations such as Build America Bonds, New Clean Renewable Energy Bonds and Qualified School Construction Bonds.

Reissuance

The following policies relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

Record Retention

The following polices relate to retention of records relating to the Obligations issued.

The Compliance Officer will:

A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.

B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.

C. Coordinate with staff to generally maintain the following:

1. The Transcript relating to the transaction (including any arbitrage or other tax certificate and the bond counsel opinion);

2. Documentation evidencing expenditure of proceeds of the issue;

3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land,
buildings or equipment, economic life calculations and information regarding depreciation.

4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreements and research agreements);

5. Documentation evidencing all sources of payment or security for the issue; and

6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).

D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.

E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

Continuing Disclosure

Under the provisions of SEC Rule 15c2-12 (the “Rule”), underwriters are required to obtain an agreement for ongoing disclosure in connection with the public offering of securities in a principal amount in excess of $1,000,000. Unless the Issuer is exempt from compliance with the Rule as a result of certain permitted exemptions, the Transcript for each issue of Obligations will include an undertaking by the Issuer to comply with the Rule. The Compliance Officer of the Issuer will monitor compliance by the Issuer with its undertakings, which may include the requirement for an annual filing of operating and financial information and will include a requirement to file notices of listed “material events.”

Conduit Bond Financings

In conduit bond financings, such as industrial revenue bonds or Midwestern Disaster Area Bonds, the Issuer is not in a position to directly monitor compliance with arbitrage requirements and qualified use requirements because information concerning and control of those activities lies with the private borrower. The Issuer’s policy in connection with conduit financings is to require that the bond documents in such financings impose on the borrower (and trustee or other applicable party) responsibility to monitor compliance with qualified use rules and arbitrage and other federal tax requirements and to take necessary action if remediation of nonqualified bonds is required.
REQUESTED ACTION STATEMENT

July 24, 2012

TO: Mayor Chiovatero
    Common Council

FROM: Ralph Chipman
    Finance Director

ISSUE: Post issuance Compliance Policy

REQUESTED:

Adopt a Post-Issuance Compliance Policy for Tax-Exempt Debt, appoint Finance director as the city's compliance officer

BACKGROUND:

The City has historically issued tax exempt debt annually and currently has a significant amount of this outstanding. With the recent IRS changes it is advantageous to the city to adopt this policy before issuing more debt.

FISCAL IMPACT:

None

RATIONALE:

The attached policy, prepared by our bond counsel, Quarles & Brady, brings the city in compliance with federal tax requirements. The rational for adopting this policy is detailed in the attached memo from the city's financial advisors, Ehlers. It makes sense to appoint the finance director as the compliance officer, this position has done these duties in the past and is familiar with the requirements.
Memo

To: Ralph Chipman, New Berlin Finance Director

From: Greg Johnson, Ehlers
           Mike Harrigan, Ehlers
           Phil Cosson, Ehlers

Date: July 2, 2012

Subject: Post Issuance Compliance Policy for Tax-Exempt & Tax Advantaged Obligations

The Closing Documents prepared by Bond Counsel, in conjunction with municipal Bonds or Notes, outline the City’s responsibilities for complying with federal tax requirements. The Closing Documents reference many federal tax requirements including, but not limited to, documentation and record keeping practices, arbitrage, private activity, and continuing disclosure requirements.

The City has always been responsible for monitoring and complying with these federal tax requirements. The Tax Exemption Certificate and Post-Closing Compliance Checklist included in the Closing Documents for each issue of Bonds or Notes, establishes the requirements and procedures the City must comply with. However, the Internal Revenue Service (IRS) has stressed the importance of having written compliance policies in place regarding these federal tax requirements.

The newly revised Federal Information Return (Form 8038-G), prepared by Bond Counsel for each issue of Bonds or Notes, specifically asks whether the City has adopted written procedures for compliance with arbitrage rules and remedial action requirements. In addition, the IRS has indicated that communities who have such policies in place will receive more favorable treatment in the event that there is a tax problem with respect to one of their issues.

In light of the increased emphasis by the IRS on the need to have written procedures for compliance with tax requirements, it is advisable for the City to adopt general policies and procedures applicable to all its issues.

Attached is an example of such a policy prepared by your Bond Attorney. We recommend the City review this policy template and identify the appropriate person to serve as Compliance Officer. The policy should then be approved by the City’s Governing Body and implemented by the City’s staff.

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