

CHAPTER 26
SALE OF TAX DEED LANDS
Investment Policy

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26.01 TITLE. This ordinance may be cited as the *Tax Deeded Lands and Investment Ordinance*.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.02 AUTHORITY. This chapter is enacted under the authority of sections 59.07(1), 75.35, 75.69 and 75.80 of the Wisconsin Statutes.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.03 PURPOSES; STATEMENT OF POLICY. (1) This chapter is enacted to establish procedures for the sale of tax deeded

lands, create penalties for failure to pay real property taxes in a timely manner and set up an investment policy for the County of Dane.

(2) The treasurer and the committee shall acquire, manage and dispose of tax deeded lands so as to realize as much tax revenue as circumstances may permit, and without speculation as to the possible future sale value of such lands.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.04 DEFINITIONS. The following words as used in this chapter shall have the meanings indicated:

(1) *Board* means the Dane County Board of Supervisors.

(2) *Committee* means the finance committee of the Dane County Board of Supervisors.

(3) *Former owner* means the person, persons, or business entity last holding title to lands which have been taken by tax deed and includes the heirs and personal representatives of the estate of any such person or entity.

(4) *Tax deeded lands* means lands which have been acquired by Dane County through the process of collecting delinquent real estate taxes by tax deed, foreclosure of tax certificates, deed in lieu of tax deed or other real estate tax collection means.

(5) *Treasurer* means the Dane County Treasurer.

[History: am., OA 31, 1984-85, adopted 03/07/85.]

State Law Reference: Sec. 75.35(1)(b), Wis. Stats.

26.05 ADMINISTRATION AND OVERSIGHT RESPONSIBILITIES. (1) The treasurer shall administer this chapter in accordance with its provisions.

(2) The committee shall oversee the administration of this chapter.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.06 LANDS EXEMPT FROM APPLICATION OF THIS CHAPTER. Lands which subsequent to acquisition have been improved for or dedicated to a public use by Dane County in accord with section 59.07(1), Wis. Stats., shall not be treated as tax deeded lands and shall not be disposed of under the procedures of this chapter. Such lands shall be disposed of only as the Board shall from time to time direct.

[26.07 - 26.10 reserved.]

26.11 ISSUANCE OF TAX DEEDS. (1) The treasurer shall take all necessary steps, including the giving of notice to owners of record, occupants, and mortgagees of record, preparatory to the issuance of tax deed to Dane County on any property that is subject to tax certificates held by Dane County and eligible for the taking of tax deed. Upon expiration of the time prescribed by law for the redemption of tax certificates held on a property and a determination by the treasurer that the taking of tax deed is in the financial best interest of Dane County, the treasurer shall proceed to have tax deed to the property issued to Dane County, subject only to the repurchase preference given the former owner under section 26.15 of this ordinance.

(2) Title to property which is subject to a lien or liens for special assessments under sections 66.60, 66.604, and 66.54(13)(14), Wis. Stats., shall be taken as tax deeded lands subject to special authorization from the committee.

[History: am., OA 31, 1984-85, adopted 03/07/85; (1) am., OA 12, 2002-03, pub. 09/30/02.]

26.12 TIMELY ACTION. The treasurer shall safeguard the interests of Dane County in the taking of tax deeds and insure that proper actions to bar former owners are instituted by timely action within any and all statutes of limitation.

[History: am., OA 31, 1984-85, adopted 03/07/85.]

26.13 AUTHORITY TO MANAGE AND SELL TAX DEEDED LANDS. Under the authority of sections 73.35 and 75.69, Wis. Stats., the treasurer under the general oversight of the committee is hereby empowered to manage and sell, subject to the approval of the committee, tax deeded lands.

[History: am., OA 31, 1984-85, adopted 03/07/85.]

State Law Reference: Section 59.07(1), 73.35 and 75.69, Wis. Stats.

26.14 PROCEDURES FOR SALE. No tax deeded lands shall be offered for sale unless the procedures of this section shall first have been complied with.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.15 PREFERENCE TO FORMER OWNER. (1) Pursuant to section 75.35(3), Wis. Stats., the treasurer is hereby empowered to sell tax deeded lands to the former owner. In so doing, the treasurer is authorized to give such former

owner preference over others in the purchase of said lands.

(2) Sales made pursuant to this section shall be exempt from the requirements of section 75.69, Wis. Stats., and sections 26.17 and 26.18 of this ordinance.

(3) The treasurer shall give notice of the privilege to redeem tax deeded lands to the former owner by sending a letter by certified mail, return receipt requested, addressed to the former owner at his or her last known address. The notice shall be deemed delivered as of the earlier of:

(a) the date the letter is actually received by the former owner;

(b) the date a receipt is given for the letter by or on behalf of the former owner; or

(c) the date the United States Postal Service indicates service by certified mailing cannot be completed.

(4) The privilege of repurchasing tax deeded lands under this section shall expire if the former owner does not exercise the privilege within 60 days of delivery of the notice from the treasurer under subsection (3) hereof.

(5) The treasurer shall not sell any tax deeded lands to the former owner unless the former owner pays all real estate taxes, including special assessments, then due and owing together with the interest and penalty thereon plus service charges to said lands equal to one percent (1%) of the equalized value of the tax deeded lands. In any event, the service charge shall be not less than \$50.00.

(6) Failure to give notice to the proper party as former owner shall not create a right in any person or persons to redeem tax deeded lands. In any event, no former owner shall have any privilege of redemption of tax deeded lands after six (6) months of the date the treasurer first takes tax title to the parcel of the former owners.

(7) This section shall not apply to tax deeded lands which have been improved for or dedicated to a public use by Dane County subsequent to acquisition and no sales to the former owner or any other person shall be made of such lands.

[History: am., OA 31, 1984-85, adopted 03/07/85.]

26.16 SALE OF TAX DEEDED LANDS TO MUNICIPALITY. (1) In the event a parcel of tax deeded lands is not redeemed by the former owner, the treasurer may offer it to the

municipality within which the parcel is located before offering the same to the general public.

(2) The sale price of a parcel of tax deeded lands on sale to a municipality shall be in an amount at least equal to the greater of the following:

(a) The estimated fair market value as listed on the most recent tax bill, or other appraised value as determined by the committee pursuant to Wis. Stat. s. 75.69(1);

(b) The sum of all real estate taxes, including special assessments, interest and penalties then due and owing together with the county's actual costs in preparing the parcel for sale; or

(c) One hundred dollars (\$100).

(3) Sale of tax deeded lands to a municipality under this section shall be approved by the committee before a quit claim deed is issued by the county clerk.

[History: cr., OA 31, 1984-85, adopted 03/07/85; (2) and (3) am., 2023 OA053, pub. 10/13/23.]

26.17 APPRAISALS REQUIRED. (1) Where the assessed value of a parcel or contiguous parcels of tax deeded lands is or totals \$25,000 or more, the treasurer may obtain a professional appraisal.

(2) Unless a professional appraisal is obtained by the treasurer, the committee, acting by a subcommittee of not less than two of its members, shall appraise the parcel(s) in question.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.18 PUBLIC ADVERTISEMENT OF SALE OF TAX DEEDED LANDS. (1) The treasurer shall publish a Class 3 notice of the sale of tax deeded lands, in accordance with s. 75.69(1), Wis. Stats., describing each parcel for sale, its appraised value and the date on and after which the parcel will be available for purchase.

(2) A parcel once advertised for sale but not sold on the first date of the sale need not be advertised again provided that the appraised value remains unchanged.

[History: cr., OA 31, 1984-85, adopted 03/07/85.]

26.19 SALE OF TAX DEEDED LANDS. (1) On the date specified in the publication referred to in s. 26.18 as the first date of sale, the treasurer shall accept offers for each parcel of tax deeded lands available for sale on that date. On such date, the treasurer shall sell each parcel to the bidder whose unconditional bid is most advantageous to the County and equal to or exceeds the advertised appraised value of

the parcel. At the same price or within ten percent (10%) of each other, unconditional bids shall be given preference over conditional offers.

(2) Offers which contain conditions, including financing contingencies of a duration of more than 30 days, shall be referred to the committee for review. If it decides not to act, the committee may require that the entire transaction be referred to the board for resolution.

(3) If a parcel is not sold by bid at the first date offered for sale, the treasurer may sell the parcel at anytime thereafter to any person making an offer at or exceeding the appraised value.

(4) The treasurer may engage the services of a licensed real estate broker to sell those parcels not sold on the first date available for sale and may pay a commission not to exceed six percent (6%) of the sale price for any sale arranged by a broker retained by the treasurer. The retention of a broker shall not affect the ability of the treasurer to sell the parcel directly, without incurring an obligation to pay brokerage fees when a sale is arranged without the involvement of the broker.

[History: cr., OA 31, 1984-85, adopted 03/07/85; (1) am., OA 15, 2013-14, pub. 09/24/13.]

[26.20 reserved.]

26.21 RESPONSIBILITIES OF THE FINANCE COMMITTEE. (1) The committee shall have the general oversight responsibilities with respect to the acquisition, management and sale of tax deeded lands.

(2) The committee shall have the duty to view tax deeded lands and to oversee and approve the sale of tax deeded lands and in furtherance of this obligation may request such information from the treasurer as its members may from time to time request.

(3) Each year the treasurer shall furnish a report to the committee containing an itemization of all sales of tax deeded lands detailing the appraised value of each parcel, the various prices offered for each during the course of the year and the actual sale price or other disposition of each parcel during the year. Unless set over by the committee, the report is due to the committee by October 1 of each year.

(4) The committee shall decide requests made by the treasurer relating to the taking of

title to real estate on which there are delinquent or unpaid assessments.

[History: am., OA 31, 1984-85, adopted 03/07/85.]

26.22 DEEDS; LAND CONTRACTS. (1) Upon receipt of full payment, the treasurer shall direct the county clerk to issue a quit claim deed to the purchaser of tax deeded lands.

(2) Notwithstanding subsection (1) above, the committee, acting in best interests of the county, may authorize the county clerk to enter into a land contract on behalf of the county with the purchaser. The terms of a land contract purchase shall be approved by the committee.

[History: cr., OA 31, 1984-85, adopted 03/07/85; Section renum., 2017 OA-5, pub. 06/28/17.]

26.23 REPEAL OF INCONSISTENT ACTS. All ordinances, resolutions and other official and unofficial acts of the County of Dane which are inconsistent with the provisions of this ordinance are hereby repealed.

[History: am., OA 31, 1984-85, adopted 03/07/85; Section renum., 2017 OA-5, pub. 06/28/17.]

26.24 IMPOSING PENALTY ON DELINQUENT REAL ESTATE TAXES AND SPECIAL ASSESSMENTS. (1) Pursuant to

the authority of 74.47(2), Wis. Stats., there is hereby imposed a penalty of 0.5 per cent per month or fraction of a month, in addition to the interest provided for in sec. 74.47(1), Wis. Stats., on all general property taxes, special charges, special assessments and special taxes that are overdue or delinquent on and after the effective date of this ordinance amendment.

(2) All interest and penalty collected under this section shall be distributed as required under section 74.47(3), Wis. Stats.

(3) This ordinance amendment shall be effective upon passage and publication, in the manner provided for in the state statutes.

[History: (1) am., (2) rep. and recr., OA 15, 1989-90, pub. 10/16/89; Section renum., 2017 OA-5, pub. 06/28/17.]

26.25 DETERMINATION OF TIMELINESS. The county treasurer is hereby delegated the authority to make a determination under section 74.69(3), Wis. Stats., as to whether or not a late payment was timely made because the sole reason it was not timely was a delay or administrative error on the part of the U.S. Postal Service.

[History: cr., OA 15, 1989-90, pub. 10/16/89; Section renum., 2017 OA-5, pub. 06/28/17.]

[26.26 - 26.30 reserved.]

SUBCHAPTER II

Property Assessed Clean Energy Financing

26.31 NAME AND PURPOSE. (1) Subchapter II consists of sections 26.31 to 26.50, inclusive, and shall be known as the Property Assessed Clean Energy Financing (PACE) Ordinance.

(2) The County finds that renovations or additions to premises located in the County made to improve energy efficiency, improve water efficiency, and/or use renewable resource applications, increase property values, stimulate local economic activity, provide local and global environmental benefits, and promote the general welfare of County residents. The purpose of this section is to facilitate loans arranged by property owners or lessees to make such improvements by treating loan principal and interest, fees, and other charges as special charges eligible for inclusion on the tax roll for these properties.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.32 AUTHORITY. This ordinance is enacted pursuant to section 66.0627 of the Wisconsin Statutes, as amended, which authorized a county to make a loan or enter into an agreement regarding loan repayments to a 3rd party for owner-arranged or lessee-arranged financing, to an owner or a lessee of a premises located in the county for making or installing an energy efficiency improvement, a water efficiency improvement or a renewable resource application to a premises.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.33 DEFINITIONS. The following words as used in this subchapter shall have the meanings indicated:

(1) *Annual installment* means the portion of the PACE loan that is due and payable for a particular year under the supplemental agreement.

(2) *Borrower* means the property owner or lessee of the subject property that borrows the proceeds of a PACE loan.

(3) *Default loan balance* means the outstanding balance, whether or not due, of a PACE loan at the time that the County receives foreclosure proceeds.

(4) *Foreclosure proceeds* means the proceeds received by the County from the disposition of a subject property through an in rem property tax foreclosure.

(5) *Loan amount* means the principal, interest, administrative fees (including the Program Administrator's fees) and other loan charges to be paid by the borrower under the PACE loan.

(6) *PACE* means the acronym for property assessed clean energy.

(7) *PACE default provisions* means:

(a) The delinquent annual installment(s) due when the County initiates in rem property tax foreclosure on the subject property;

(b) Any additional annual installment(s) that become due between the time that the County initiates in rem property tax foreclosure on the subject property and the date the County receives the foreclosure proceeds;

(c) Any default interest charges applied to unpaid annual installments referenced in subs. (a) and (b) above,, as provided in the supplemental agreement; and

(d) Any default loan balance.

(8) *PACE lender* means any person that makes a PACE loan, and which may include an affiliate of the borrower.

(9) *PACE loan* means a loan made by a PACE lender to a borrower under this section for energy efficiency improvements, water efficiency improvements, or renewable resource applications made to or installed on a subject property.

(10) *Person* means any individual, association, firm, corporation, partnership, limited liability company, trust, joint venture or other legal entity, or a political subdivision as defined in section 66.0627 of the Wisconsin Statutes.

(11) *Program Administrator* means the person retained by the Wisconsin PACE Commission as provided in section 26.35(2).

(12) *Subject property* means any premises located in the County on which any energy efficiency improvements, water efficiency improvements, or renewable resource applications are being or have been made and financed through an outstanding PACE loan.

(13) *Supplemental agreement* means a written agreement among a borrower, a PACE lender and the County, as provided for in section 26.37.

(14) *Wisconsin PACE Commission* means the Wisconsin PACE Commission formed under Wis. Stat. § 66.0301, as amended, by the County and one or more other political subdivisions as defined in Wis. Stat. § 66.0627, pursuant to a Joint Exercise of Powers

Agreement relating to the Wisconsin PACE Commission.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.34 PACE LOANS AS SPECIAL CHARGES; DELINQUENT AMOUNTS AS LIENS. Any PACE loan made and secured pursuant to this Subchapter shall be considered a special charge on the subject property. Any annual installment or portion of a PACE loan made and secured pursuant to the section that becomes delinquent according to the terms of the PACE loan shall be a lien against the subject property and placed on the tax roll, as permitted pursuant to Wis. Stat. section 66.0627 as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.35 WISCONSIN PACE COMMISSION.

(1) Any of the powers and duties of the County under this Subchapter, except for those under section 26.39, may (but are not required to) be delegated to the Wisconsin PACE Commission.

(2) The Wisconsin PACE Commission is further authorized to retain a Program Administrator to act as its agent and administer the PACE Program, subject to adherence with PACE Program requirements set forth in this Subchapter and in Wis. Stat. § 66.0627 as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.36 LOAN APPROVAL. (1) A prospective borrower applying for a PACE loan shall comply with the loan application process set forth in the program manual approved by the County.

(2) The County shall approve the financing arrangements between a borrower and PACE lender.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.37 SUPPLEMENTAL AGREEMENT.

(1) The County, the borrower, and the PACE lender shall execute the supplemental agreement which, without limitation:

(a) Shall inform the participants that the PACE loan amount shall be imposed as and considered a special charge, and each year's annual installment may be included on the property tax roll of the subject property as a special charge and an annual installment that is delinquent shall be a lien against the subject property pursuant to Wis. Stat. § 66.0627, as amended;

(b) Shall recite the amount and the term of the PACE loan;

(c) Shall provide for the amount, or a method for determining the amount, of the annual installment due each year;

(d) Shall provide whether default interest may be applied to unpaid annual installments;

(e) Shall require the PACE lender and the borrower to comply with all federal, state, and local lending and disclosure requirements;

(f) Shall provide for any fees payable to the County and/or Program Administrator;

(g) Shall recite that the supplemental agreement is a covenant that runs with the land;

(h) May provide for prepayments of annual installments by the borrower with a resulting reduction in the special charge for the prepayment, subject to any prepayment premium charged by the PACE lender, if any; and

(i) May allow for amendment by the parties.

(2) Prior to executing the supplemental agreement, the owner of the subject property, if different from the borrower, and any existing mortgage holder(s) on the subject property must have executed a separate writing acknowledging the borrower's use of PACE financing for the subject property and the special charge that will be imposed under this section and its consequences, including the remedies for collecting the special charge.

(3) Each PACE loan shall be amortized over the term of the PACE loan as provided in the supplemental agreement.

(4) The annual payments of a PACE loan may be payable in installments as authorized by Wis. Stat. section 66.0627, as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.38 ANNUAL INSTALLMENTS ADDED TO TAX ROLLS. Upon the request of the Program Administrator the County shall place each year's annual installment on the tax roll of the subject property as permitted pursuant to Wis. Stat. § 66.0627, as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.39 REMITTANCE OF SPECIAL CHARGES. The County shall promptly remit to the Wisconsin PACE Commission any payment(s) for a special charge imposed under this Subchapter, including penalties and charges thereon, it may receive from any taxing district or the County treasurer pursuant to Wis. Stat. Ch. 74, as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.40 PROPERTY TAX FORECLOSURE PROCEDURES.

(1) The County elects to utilize the provisions of Wis. Stat. § 75.521, as amended, for the purpose of enforcing tax liens if a subject property owner fails to pay any special charges imposed on the subject property under this Subchapter as required.

(2) The County shall begin an in rem property tax foreclosure proceeding on the subject property at the earliest time allowed under Wisconsin Statutes, unless the County determines that subject property is a “brownfield” (as defined in Wis. Stat. § 75.106, as amended) or that in rem property tax foreclosure is not in the best interests of the County due to the condition of the property or for other reasons.

(3) If the County has determined that it will not commence an in rem property tax foreclosure proceeding, then the PACE lender may request that the County, pursuant to Wis. Stat. § 75.106, as amended, assign the County’s right to take judgment against the subject property, provided that the PACE lender and the County fully comply with all provisions of Wis. Stat. § 75.106, as amended, concerning the subject property and the PACE lender agrees to pay the amounts required by Wis. Stat. § 75.36(3)(a)1. and 1m., as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.41 SALE OF FORECLOSED PROPERTY.

If the County prevails in an in rem property tax foreclosure action against a subject property, the County shall diligently proceed to sell the subject property pursuant to the procedures set forth in Wis. Stat. § 75.69, as amended.

[History: cr., 2017 OA-5, pub. 06/28/17.]

26.42 DISTRIBUTION OF FORECLOSURE PROCEEDS.

The County Treasurer shall follow the procedures set forth in Wis. Stat. § 75.36, as amended, to distribute the proceeds from the sale of the subject property.

[History: cr., 2017 OA-5, pub. 06/28/17.]

SUBCHAPTER III Investment Policy

26.51 NAME, PURPOSE, SCOPE AND AUTHORITY. (1) Subchapter III consisting of sections 26.51 to 26.99, inclusive, shall be known as the Dane County Investment Policy Ordinance.

(2) The purpose of this subchapter is to define the county’s cash investment policy and establish the scope, objectives, standards of care and guidelines for safekeeping and custody of the county’s investments; create a selection process for investment management and advisory firms; provide definitions of suitable and authorized investments; establish investment parameters and reporting requirements; and articulate policy considerations.

(3) The county investment policy applies to all investment transactions and related activities of the county.

26.52 DEFINITIONS. As used in this subchapter,

(1) *County investment policy* means the entirety of the policies and practices set forth in this subchapter. The term includes practices and procedures developed pursuant to this subchapter.

(2) *Credit risk* means the risk of loss due to the failure of the security issue or backer.

(3) *GFOA* means the Government Finance Officers Association.

(4) *Interest rate risk* means the risk that the market value of securities in the portfolio will fall due to changes in general interest rates.

(5) *Advisory committee* means the Dane County Investment Advisory Committee.

(6) *Investment officer* means the officer or employee of the county to whom is delegated the county board’s investment authority pursuant to s. 59.62(1), Wis. Stats.

(7) *LGIP* means the Local Government Investment Pools administered by the State of Wisconsin Investment Board.

(8) *Oversight committee* means the committee of the county board designated as its finance committee.

(9) *Public investment standard of care* means investing of public funds with such 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.

26.53 POOLING OF FUNDS. Except where expressly prohibited by law, the county will consolidate cash balances from all funds to maximize investment earnings. Investment income shall be allocated to the general fund except that income derived from airport funds

shall be allocated to the airport and their respective participation and in accordance with generally accepted accounting principles.

26.54 INVESTMENT POLICY OBJECTIVES.

The primary objectives of county investment program shall be, in order of importance, as follows:

(1) SAFETY. Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit and interest rate risk.

(a) The investment officer shall minimize credit risk by:

1. Limiting the county's investments to the safest types of securities;
2. Pre-qualifying the financial institutions, broker, dealers, intermediaries, and advisers with which or whom the county will do business; and
3. Diversifying the county's investment portfolio so that potential losses on individual securities will be minimized.

(b) The investment officer shall minimize interest rate risk by:

1. Structuring the county's investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and
2. Investing the county's operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools.

(2) LIQUIDITY. **(a)** The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.

(b) The portfolio shall be structured so that securities mature concurrent with cash needs in order to meet anticipated operational demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio shall consist largely of securities with active secondary or resale markets (dynamic liquidity). A portion of the portfolio also may be placed in money market mutual funds or the LGIP that offer same-day liquidity for short-term funds.

(3) YIELD. **(a)** The investment portfolio shall be designed with the objective of attaining the highest market rate of return throughout budgetary and economic cycles, taking into

account safety considerations and liquidity needs.

(b) Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:

1. A security with declining credit may be sold early to minimize loss of principal.
2. A security swap may be entered into if it would improve the quality, yield, or target duration in the portfolio.
3. Liquidity needs of the portfolio require that the security be sold.

26.55 STANDARD OF CARE. **(1)** The investment officer shall exercise the authority delegated to her or him in accordance with the public investment standard of care.

(2) The investment officer, acting in accordance with chapter 34 of Wisconsin State Statutes, this investment policy, county procedures and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported to the oversight committee in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the provisions of this subchapter, including the public investment standard of care.

26.56 ETHICS AND CONFLICTS OF INTEREST. **(1)** Officers and employees

involved in the administration of the investment program 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.

(2) Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial or investment positions, or combination thereof, that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the county.

26.57 DELEGATION OF AUTHORITY.

(1) Pursuant to s. 59.62(1), Wis. Stats., the county board hereby delegates to the county treasurer the authority to act as the investment officer.

(2) The investment officer shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with the provisions of this subchapter. No person on behalf of the county may engage in an investment transaction except as provided under the provisions of this subchapter and under the supervision of the investment officer. The investment officer shall be responsible for all transactions undertaken and adherence to the system of controls by subordinate officials and staff.

(3) The investment officer may contract with one or more investment managers or advisors with authority to make investment commitments consistent with the provisions of this subchapter. Such contracts shall be for a term of not more than 3 years provided that any such contract may contain an option exercisable by the investment officer for an additional 2 year term.

[26.58 - 26.60 reserved.]

26.61 INVESTMENT ADVISORY COMMITTEE.

(1) There is hereby created the Dane County Investment Advisory Committee comprised of the investment officer, the director of administration, chair of the personnel and finance committee or chair's designee from the committee, the internal auditor, and three citizen members who are or have been investment or banking professionals and who have investment experience.

(2) The investment officer shall serve as the chairperson on the advisory committee. The committee shall elect a secretary and a vice-chairperson.

(3) The advisory committee shall meet at least quarterly to review the investment program and to provide such advice to the investment officer as she or he may request or the members deem prudent.

(4) The advisory committee shall also review and advise the investment officer on portfolio composition; strategies; performance; the current and future investment environment; and the development of operating procedures and internal controls. Such controls shall include references to: safekeeping, delivery vs. pay-

agreements, wire transfer agreements, reporting, and collateral/depository agreements.

(5) The advisory committee shall assist the investment officer by developing investment data, statistics and recommendations to aid the investment officer in her or his investment decisions; reviewing investment operations and reports on an ongoing basis; assisting in the selection and performance review of the working bank and investment advisors or managers used by the county; and providing such other assistance to the investment officer regarding the investment program, as may be requested.

(6) Citizen members of the advisory committee shall be appointed for staggered two-year terms and may be re-appointed. The investment officer shall solicit citizen member nominations, and may accept unsolicited nominations as well. Nominations of citizen members shall be made by the investment officer to the personnel and finance committee, which shall confirm or deny the appointments.

(7) Nothing in this section shall be construed to limit the authority of the personnel and finance committee under s. 7.14(2) to act as the policy oversight committee for the office of the county treasurer, or under s. 7.14(7) to concern itself with matters relating to banks, bonds, the collection of delinquent taxes and the sale of tax-deeded properties and to make reports to the county board.

26.62 SELECTION OF INVESTMENT ADVISORS AND INSTRUMENTS.

(1) Selection of investment managers and advisors shall be made through a formal competitive request for proposal process.

(2) (a) Except for funds placed in the Local Government Investment Pool, when the county directly invests surplus funds in investment instruments, a competitive bid process shall be conducted. Bids will be secured from at least three institutions meeting the requirements of this subchapter. Bidders are required to bid a firm price or yield.

(b) If a specific maturity date is required, bids will be requested for instruments which meet the maturity requirements. If no maturity date is required, the most advantageous market trend yield will be selected.

(c) Awards will be given to the bidder offering the highest effective yield consistent with the provisions of this subchapter; however, transaction cost (e.g., wire transfer costs) and

investment experience may be considered when awarding investments.

26.63 SAFEKEEPING AND CUSTODY.

(1) The investment officer shall maintain a list of financial institutions authorized to provide investment services. The investment officer shall also maintain a list of approved security brokers and dealers selected by creditworthiness (i.e., a minimum capital requirement of \$10,000,000 and at least five years of operation). These may include primary dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (Uniform Net Capital Rule).

(2) All financial institutions and brokers or dealers who desire to become qualified for investment transactions must supply the following as appropriate:

- (a) Audited financial statements for the past 3 years;
- (b) Proof of designation as a primary government securities dealer by the Federal Reserve Bank;
- (c) Proof of National Association of Securities Dealers certification;
- (d) Proof of state registration;
- (e) Completed broker/dealer questionnaire;
- (f) Positive feedback from at least 3 business references as to the quality of service and business practices provided by both the institution/dealer firm and its representatives;
- (g) Certification of having read and understood and agreeing to comply with the county’s investment policy; and
- (h) An annual review of the financial condition and registration of qualified financial institutions and broker/dealers will be conducted by the investment officer.

26.64 INTERNAL CONTROLS.

(1) The investment officer shall establish an internal control structure designed to ensure that the assets of the county are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits required estimates and judgements by management.

(2) The investment officer shall establish a process for an annual independent review by the county’s internal auditor or the external auditor to assure compliance with policies and

procedures. The internal controls shall address the following:

- (a) Control of collusion;
- (b) Separation of transaction authority from accounting and record keeping;
- (c) Custodial safekeeping;
- (d) Avoidance of physical delivery securities;
- (e) Clear delegation of authority to subordinate staff members;
- (f) Written confirmation of transactions for investments and wire transfers; and
- (g) Development of a wire transfer agreement with the lead bank and third-party custodian.

[26.65 - 26.70 reserved.]

26.71 DELIVERY VS. PAYMENT. All trades where applicable will be executed by delivery vs. payment to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

26.72 COLLATERAL. (1) All investment institutions acting as a depository for the county must enter into a “depository agreement” requiring the depository to pledge collateral to secure amounts over and above guaranteed amounts. All securities serving as collateral shall be specifically pledged to the county (not as part of a pooled fund) and placed in a custodial account at a Federal Reserve Bank, a trust department of a commercial bank or through another financial institution. The custodian may not be owned or controlled by the depository institution or its holding company unless it is a separately operated trust institution. The custodian shall send statements of pledged collateral to the treasurer’s office on a monthly basis.

(2) Amounts in excess of Federal Deposit Insurance Corporation and State Deposit Guarantee Fund guaranteed amounts must be fully collateralized. Acceptable collateral includes the following:

- (a) Securities of the U.S. Treasury or U.S. Governmental Agency as defined by the Federal Reserve;
- (b) U.S. government guaranteed securities such as those issued through the Small Business Administration are acceptable as long as they are fully guaranteed;
- (c) Commercial paper which is the highest or second highest rating category assigned by

Standard and Poor's Corporation, Moody's Investors Service, Inc., or other similar nationally recognized rating agency may be used to the extent that a collateralization level of 125 percent is maintained;

(d) General obligations of municipalities are acceptable to the extent that they are rated second highest or higher by Standard and Poor's Corporation, Moody's Investors Service, Inc., or other similar nationally recognized rating agency (i.e., AAA or AA classifications); or

(e) Irrevocable standby letters of credit issued by Federal Home Loan Banks accompanied by written evidence that the bank's debt is rated "AA" or better by Moody's Investors Service, Inc., or Standard & Poor's Corporation.

(3) Collateral held by a trust institution supporting Certificates of Deposit, Repurchase Agreements or other qualified investments consistent with this investment policy, and not identified in sub. (1) or (2), must meet the following requirements:

(a) Collateral must be equal to at least 100 percent of market value of the total amount invested plus interest to be earned at the time of investment. Collateral shall be marked-to-market on a monthly basis;

(b) Acceptable collateral includes items identified in sub. (2);

(c) A detailed statement listing a description of securities pledged and held in safekeeping must be provided on a monthly basis; and

(d) Evidence of professional liability insurance and fidelity bonds.

[History: (2) am., 2014 OA-45, pub. 08/27/14.]

26.73 SUITABLE AND AUTHORIZED INVESTMENTS. [INTRO.]

Subject to restrictions as may be imposed by law the investment officer shall invest county funds only in the following securities:

(1) Obligations of the United States of America, its agencies, government-sponsored enterprises and instrumentalities, provided that the payment of the principal and interest is guaranteed by the issuer and that they have a liquid market with a readily determinable market value;

(2) Certificates of Deposit and other evidences of deposit at credit unions, banks, savings banks, trust companies or savings and loan associations authorized to transact business in the State of Wisconsin which time deposits mature in not more than two years.

Any certificate of deposit invested over the Federal Deposit Insurance Corporation and State Deposit Guaranteed Fund insured amount of \$500,000, whichever is less, are to be fully collateralized under the specific requirements of s. 26.72.

(3) General obligation bonds or securities of any county, city, drainage district, vocational, technical and adult education district, village, town or school district of the state, if the bond or security is rated in one of the two highest rating categories assigned by Standard and Poor's Corporation, Moody's Investors Service, Inc., or other similar nationally recognized rating agency.

(4) LGIP investment agreements pursuant to which a federal or state credit union, federal or state savings and loan association, state bank, savings and trust company, mutual savings bank, or national bank in the State of Wisconsin agrees to repay funds advanced to it by the issuer, plus interest. Repurchase Agreements are to be secured by investment grade securities fully guaranteed by the U.S. Government.

(5) Operating bank accounts provided deposits shall be limited to the lesser of \$500,000 or amounts guaranteed by the Federal Deposit Insurance Corporation and the State Deposit Guarantee Fund unless overnight funds in excess are fully collateralized under the specific requirements of s. 26.72. Deposits with institutions outside of the State of Wisconsin are prohibited.

(6) Open ended money market funds, restricted to investments permitted by s. 66.0603(1m)(c), Wis. Stats., and limited to a maximum average maturity of 120 days or less. This limit does not apply to the LGIP investments.

(7) Highly rated commercial paper which may be tendered for a purchase at the option of the holder within not more than 270 days of the date acquired, as permitted by s. 66.0603(1m)(a)4, Wis. Stats. These securities must be rated in the highest or second highest rating category assigned by Standard and Poor's Corporation, Moody's Investors Service, Inc., or other similar nationally recognized rating agency, or senior to or on a parity with a security of the same issuer which has such a rating. Investments in these securities shall be limited to no more than 5 percent exposure to any single issuer.

(8) Out of state general obligation bonds or securities of any county, city, drainage district,

vocational, technical and adult education district, village, town or school district, if the bond or security has a maturity of seven years or less from the date on which it was acquired and, if the bond or security is rated in one of the two highest rating categories by Standard and Poor's Corporation, Moody's Investors Service, Inc., or other similar nationally recognized rating agency.

(9) Guaranteed investment contracts for investment of bond proceeds that may be yield restricted under federal tax regulations governing the issuance of tax-exempt debt.

26.74 INVESTMENT PARAMETERS. (1) The investment officer shall ensure amounts on deposit do not exceed collateralized amounts guaranteed by the investment institution, consistent with the provisions of this subchapter.

(2) DIVERSIFICATION. County investments shall be diversified by:

(a) Limiting investments to avoid over-concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities);

(b) Limiting investment in securities that have higher credit risks;

(c) Investing in securities with varying maturity dates; and

(d) Continuously investing a portion of the portfolio in readily available funds such as the LGIP, money market funds or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

26.75 MAXIMUM MATURITY DATES. (1) To the extent possible, the county shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the county will not directly invest in securities maturing more than five years from the date of purchase or in accordance with state and local statutes and ordinances. The county shall adopt weighted average maturity limitations consistent with the investment objectives.

(2) Reserve funds and other funds with longer-term investment horizons may be invested in securities that exceed five years but not more than ten years, if the maturity of such investments are made to coincide as nearly as practicable with the expected use of funds. The intent to invest in securities with maturity

dates beyond five years shall be disclosed in writing to the oversight committee.

[History: (2) am., OA 31, 2006-07, pub. 02/27/07.]

26.76 CASH LIQUIDITY. County investments shall be managed to maintain liquidity for meeting the county's need for cash and to limit potential market risks. Investments will be made through investment institutions offering the highest yielding rates, consistent with the provisions of this subchapter.

26.77 RESTRICTED INVESTMENTS. The following restrictions will apply to any investments made by Dane County:

(1) Dane County will limit participation in institutional investment pools or money market funds to no greater than ten percent of the total amount of funds invested in the pool, based on monthly statement ending balances.

(2) No investments shall be made in reverse repurchase agreements, nor shall any investments be made with funds borrowed through the use of county investment assets as collateral.

(3) No investments shall be made in securities of foreign issuers or in securities denominated in a currency other than the U.S. Dollar.

[26.78 - 26.80 reserved.]

26.81 REPORTING. (1) The investment officer shall provide the oversight committee with copies of a portfolio performance report at least quarterly or when a specific request is made. The report will summarize the investment strategies employed and describe the portfolio in terms of investment securities, maturity dates, risk characteristics and other factors. The report will indicate any areas of policy concern and suggested or planned revision of investment strategies. Between reporting periods the investment officer shall notify the oversight committee of any unusual investment activities or events.

(2) The investment officer shall provide the county board with copies of a portfolio performance report and the county's investment plan at least annually.

(3) The investment officer shall prepare a detailed investment report at least quarterly for the advisory committee, including a management summary that provides an analysis of the status of the current investment portfolio and transactions made over the last

quarter. This management summary will be prepared in a manner that will allow the advisory committee to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report shall include the following:

- (a) A listing of individual securities held at the end of the reporting period;
- (b) Realized and unrealized gains or losses resulting from appreciation or depreciation by listing the cost and market value of securities over a one-year duration that are not intended to be held until maturity;
- (c) Average weighted yield to maturity of portfolio on investments as compared to applicable benchmarks;
- (d) Listing of investment by maturity date; and
- (e) Percentage of the total portfolio which each type of investment represents.

26.82 PERFORMANCE STANDARDS. The investment portfolio will be managed in accordance within the parameters established by the provisions of this subchapter. The portfolio should obtain a market average rate of return during a market and economic environment of stable interest rates. The advisory committee shall recommend a series of appropriate benchmarks against which portfolio performance will be compared on a regular basis.

26.83 MARKET VALUATION REPORT. The market value of the investment portfolio shall be calculated at least quarterly and a statement of the market value of the portfolio shall be issued at least quarterly. This will ensure that review of the investment portfolio, in terms of value and price volatility, has been performed consistent with GFOA Recommended Practice on "Mark-to-Market Practices for State and Local Government Investment Portfolios and Investment Pools."

[26.84 reserved.]

26.85 POLICY CONSIDERATIONS. Any investment currently held that does not meet

the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

[26.86 - 26.87 reserved.]

26.88 AMENDMENTS. The policy provisions of this subchapter shall be reviewed on an annual basis by the investment officer. Recommendations for changes shall be submitted to the committee.

26.89 INSURANCE COVERAGE OR BONDING. The county shall obtain bonding or schedule insurance coverage for staff having authority to draw upon county bank accounts, initiate wire transfers of funds, or execute investment transactions.

[26.90 - 26.94 reserved.]

26.95 DOCUMENTS TO BE MAINTAINED. [INTRO.] The investment officer shall cause the following documents to be created and kept on file in her or his office:

- (1) Listing of authorized personnel;
- (2) Relevant investment statutes and ordinances;
- (3) Repurchase agreements and tri-party agreements;
- (4) Listing of authorized broker/dealers and financial institutions;
- (5) Credit studies for securities purchased and financial institutions used;
- (6) Safekeeping agreements;
- (7) Wire transfer agreements;
- (8) Methodology for calculating rate of return; and
- (9) Broker-Dealer Questionnaire.

[26.96 - 26.99 reserved.]

[History: Subch. II rep. and recr., Sub. 1 to OA 36, 2000-2001, pub. 06/26/01.]

END OF CHAPTER