Village of Butler

Code of Ordinances

Ordained and Published by
Authority of the Village Board

2003

Community Code Service

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Preface

DEMOCRACY IS a government of laws. Good democracy requires not only good laws, but laws which are readily available in written form to all who are subject to them, to the public officials and police officers who must administer them and to the judges and attorneys who must interpret and apply them. It is for this reason that the Village Board of the Village of Butler has adopted this Code of Ordinances. This Code represents the contribution of the Village Board to the democratic and efficient administration of the government and affairs of the Village of Butler.

VILLAGE OFFICERS

President	Walter Woloszyk
Trustees	William Geiger William Mortag Thomas Pulvermacher Aaron Schroeder Robert Ward Steve Wolf
Village Administrator/Clerk	Larry Plaster
Village Treasurer	Barbara Spinney
Chief of Police	Mike Cosgrove
Fire Chief	Ronald Worgull
Public Works Superintendent	Ken Podewils
Village Attorney	Hector de la Mora

Foreword

WE ARE PLEASED to provide this new Code of Ordinances for the Village of Butler, Wisconsin. This codification provides a complete revision and codification of all Ordinances of a general and permanent nature of the Village. All amended Ordinances are brought up to date. The Code also includes certain new Ordinances that were prepared to fill gaps not covered by existing Ordinances.

The Code also includes several features that will facilitate its use. The various chapters and articles follow one another in a natural, logical order. The table of contents, with a complete outline of this order, will often provide sufficient reference points for the reader. In addition, the reader may consult the alphabetical index at the end of the volume. At the beginning of each chapter there is a section-by-section analysis of the articles within the chapter.

Nontextual provisions such as severability clauses, repeals and enacting clauses are omitted from the text but are covered by Title 1 of the Code. In most instances, references to "this ordinance" in the text of an ordinance have been changed to "this chapter" or "this article" as deemed appropriate. Various editorial notes, state law references and amendment notes have been included throughout the Code to clarify its provisions.

We gratefully acknowledge the cooperation and assistance rendered by the Village officials in the preparation of this Code.

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Adopting Ordinance

An Ordinance Adopting and Enacting a New Code of Ordinances for the Village of Butler, Wisconsin; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; Providing a Penalty for the Violation Thereof; and Providing When This Ordinance Shall Become Effective.

The Village Board of the Village of Butler, Wisconsin, Do Ordain as Follows:

Section 1.

The Code of Ordinances is hereby adopted and enacted as the "Code of Ordinances of the Village of Butler, Wisconsin," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent Ordinances of the Village passed on or before February 3, 2003 to the extent provided in Section 2 hereof.

Section 2.

All provisions of the Code shall be in full force and effect from and after February 18, 2003, and all Ordinances of a general and permanent nature of the Village of Butler, enacted on final passage on or before February 3, 2003, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from the Code after February 19, 2003, except as hereinafter provided. No resolution of the Village, not specifically mentioned, is hereby repealed.

Section 3.

(a) The repeal provided for in Section 2 hereof shall not affect the following, except that some of the following provisions existing at the time of adoption may be amended by this recodification:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the Village, or any contract or obligations assumed by the Village;

(3) The administrative Ordinances or resolutions of the Village not in conflict or inconsistent with the provisions of the Code;

(4) Any appropriation ordinance or resolution;
(5) Any right or franchise granted by the Village Board to any person, firm or corporation;
(6) Any ordinance or resolution dedicating, naming, establishing, locating relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the Village;
(7) Any ordinance or resolution establishing the prescribing of street grades of any streets in the Village;
(8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefor;
(9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the Village;
(10) Any ordinance annexing property to the Village;
(11) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures, except that these ordinances have been amended as part of this recodification;
(12) Zoning ordinances; one- and two-family dwelling building code; and any other building codes except that these ordinances have been amended as part of this recodification.
(13) Charter ordinances.
(14) The issuance of corporate bonds and notes of the Village of whatever name or description.
(15) Water, sewer and electric rates, rules and regulations and sewer and water main construction.

(b) Nor shall the repeal be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4.

A copy of the Code shall be kept on file in the office of the Village Administrator, preserved in loose-leaf form, or in such other form as the Village Administrator may consider most expedient. It shall be the express duty of the Village Administrator or someone authorized by the Village Administrator, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the Village Board to make the same a part of the Code when the same have been printed or reprinted in page form, and to extract from the Code all provisions which may be repealed from time to time by the Village Board. This copy of the Code shall be available for all persons desiring to examine it.

Section 5.

All ordinances or parts in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6.

This ordinance shall become effective on February 18, 2003.

Passed, Approved and Adopted by the Village Board on This 18th Day of February, 2003, Pursuant to Section 66.0103, Wis. Stats.

Attest:

_____

Village President

_____

Village Administrator

Community Code Service

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(608) 846-5897

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Open Meeting Law Guide

General Requirements

1. Wisconsin's Open Meeting Law provides that all meetings of governmental bodies shall be open to all citizens at all times. Sec. 19.81(2), Wis. Stats.

2. Meetings of local governing bodies or their subunits must be held in places reasonably accessible to the public.

3. Meetings are open to all members of the public unless specifically provided otherwise by law.

4. When members of a governmental body gather in sufficient numbers to compose a quorum, that meeting is presumed to be convened for the purpose of conducting official business. Such a meeting is in violation of The Open Meeting Law if proper notice was not given and the meeting is not open to the public. Sec. 19.82(2), Wis. Stats.

5. The Open Meeting Law also applies when members of a governing body, or committee thereof, engage in business of that body and when the number of members present is potentially sufficient to determine the governing body's course of action regarding the proposal discussed [State vs. Showers, No. 85-471 (June 15, 1987)].

Public Notice

1. **Who Must Receive Notice.** For any meeting, the presiding officer, or his/her designee, shall give notice to the official newspaper and to any other members of the news media who have filed a written request to receive such notices, or if neither exists, in a manner likely to give notice to the public. Notice must also be given as required by any other state statutes.

2. **Construction of Notice.** The notice for the meeting shall include:

   a. The time, date and place of the meeting, and

   b. The subject matter of the meeting, including subject matter to be considered in closed session.

The governmental body may discuss and, if urgent, act upon matters which were not specifically referred to in the agenda where the agenda contains a general item, such as "miscellaneous business." Where the presiding officer has specific knowledge that matters may come before the body, they should be included on the agenda.

3. **Time for Notice.** Notice must be given at least twenty-four (24) hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given. In no case may notice be provided less than two (2) hours in advance of the meeting. Sec. 19.84(3), Wis. Stats.

4. **Committees and Subunits Exemption to Notice Requirement.** A legally constituted subunit of a parent government body may conduct a meeting during the recess of the governing body's meeting or immediately after the lawful meeting to act or deliberate upon a matter which was the subject of that meeting. For this exemption to apply, the presiding officer must publicly announce the time, place and subject matter of the subunit's meeting in advance at the meeting of the governing body.

Procedure for Closed Sessions.

1. Required notice must be given if the presiding officer or his/her designee knows that a closed session is being contemplated. Notice is required regardless of whether a majority of members will or will not support going into closed session at the meeting. Sec. 19.84(2), Wis. Stats.

2. After first meeting in open session, with proper notice, a motion made and recorded, supported by majority vote, is required to close, with the vote of each member recorded in the minutes. Sec. 19.85(1), Wis. Stats.

3. If the motion to go into closed session is carried, the presiding officer shall announce to those present at the meeting (to be recorded in the minutes) the nature of the business to be considered in the closed session and the specific exemption(s) relied upon in Sec. 19.85, Wis. Stats., under which the closed session is permitted.

4. Only matters contained in the presiding officer's announcement of the closed session may be considered during the closed session.

5. An open session, with adequate notice, must precede a closed session, even where it was decided at a prior open session to go into a closed session at a subsequent meeting.

6. A governmental body may vote to go into closed session at a properly convened open session, for a permitted purpose, where specific notice of intent to consider going into closed session was not included on the agenda at the time notice of the open session was given. However, such procedure requires that the presiding officer or his/her designee did not contemplate or have knowledge that any of the other members contemplated a closed session at the time notice of the agenda was given.

Specific Exemptions Allowing Closed Sessions

1. Sec. 19.85(1)(a), Wis. Stats., creates an exemption for governmental bodies deliberating after quasi-judicial trials or hearings. However, boards of review cannot rely on this exemption, for Sec. 70.47(2m), Wis. Stats., requires all board of review meetings to be held in open session.

2. Sec. 19.85(1)(b), Wis. Stats., is a limited exception to the Open Meeting Law allowing the use of a closed session when a governmental body is considering the demotion, dismissal, licensing, discipline or tenure of a public employee or a person licensed by a board or commission. This exception permits preliminary discussion and investigation without the necessity of providing actual notice to the individual involved. However, before any evidentiary hearing can be conducted or formal action taken, notice must be given to the person involved so that he or she can exercise his or her right to request an open session for those purposes.

3. Sec. 19.85(1)(c), Wis. Stats., sanctions the use of closed sessions where governmental bodies are considering employment, promotion, compensation or performance evaluation of any public employee. Governmental bodies should exercise caution when considering performance to avoid discussing matters that are covered by Sec. 19.85(1)(b), Wis. Stats.

4. Sec. 19.85(1)(c), Wis. Stats., permits the use of closed sessions when applications for parole or probation are being considered, or when crime detection or prevention strategy is to be discussed.

5. Sec. 19.85(1)(e), Wis. Stats., allows closed sessions for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or the conducting of other specified public business, as long as competitive or bargaining reasons require a closed session. Under this exception, a governmental body could meet in closed session for the purpose of forming negotiation strategies, although the body must give notice that an open session will be held for the purpose of taking a vote to convene in closed session for the purpose of discussing labor negotiation strategies.

6. Discussions by governmental bodies considering the financial, medical, social or personal histories or disciplinary data of specific persons which, if conducted in public, would have a "substantial adverse effect upon the reputation of any person referred to" may be held in closed session under Sec. 19.85(1)(f), Wis. Stats. However, this exemption is unavailable where Sec. 19.85(1)(b), Wis. Stats., is applicable.

7. Sec. 19.85(1)(g), Wis. Stats., allows a governmental body to confer with its legal counsel in closed session for the purpose of obtaining oral or written advice concerning strategy to be adopted by the body with respect to present and prospective litigation directly involving the governmental body.

8. Closed sessions may be utilized by governmental bodies to consider requests for confidential written advice from ethics boards under Sec. 19.85(1)(h), Wis. Stats.

Limitations on Closed Sessions

1. Sec. 19.85(2), Wis. Stats., makes it impermissible for a governmental body to reconvene in open session within twelve (12) hours after a closed session, unless public notice of the subsequent open session was given at the same time and in the same manner as was required for the original open session.

2. Final ratification or approval of a collective bargaining agreement is required to be in open session under Sec. 19.85(3), Wis. Stats. However, a governmental body can vote to preliminarily approve bargaining proposals in closed session, in order to reach a consensus, as long as final ratification occurs in open session.

Ballots, Votes and Records

1. Unless provided elsewhere by statute, no secret ballot may be utilized by a governmental body to determine any election or decision, except the election of the officers of such body. This narrow exception does not permit the use of secret ballots to elect members of committees, officers of the governmental units such as department heads, or fill vacancies on the body itself.

2. Any member may require the ascertainment and recording of each vote.

3. Records of motions and roll-call votes must be preserved and open for public inspection.

Use of Equipment in Meetings

1. A governmental unit must make a reasonable effort to accommodate the media's equipment.

2. Any person may record, film or photograph a meeting in open session, provided that the use of this equipment does not interfere with the conduct of the meeting(s).

3. A member of a governmental body does not have the right to tape record a closed session of the Village Board.