

PUBLIC NOTICE

AGENDA FOR REGULAR MEETING #1939  
 Monday, April 4, 2016 at 7:00 PM  
 Village Hall Board Room, 12621 W. Hampton Avenue

PLEASE TAKE NOTICE that a Regular Meeting of the Butler Village Board will be held on the 4<sup>th</sup> day of April, 2016 at 7:00 PM at the Village Hall Board Room, 12621 W. Hampton Avenue, Butler, Wisconsin, at which time and place the following items of business will be considered and possibly acted upon:

- I. Pledge of Allegiance
- II. Roll Call
- III. Persons Desiring to be Heard
- IV. Consent Agenda:  
*Note: Prior to voting on the Consent Agenda, items may be removed at the request of any Trustee and be placed on the agenda under New Business.*
  - 1) March 15, 2016 Regular Meeting Minutes
  - 2) Current Invoices
  - 3) Bartender's Licenses – Regular - Jessica R. Headson, Concession Stand, Bottoms UP
  - 4) Application for Temporary Class "B"/"Class B" Retailer's License for S.V.E.V. D'Oberlandler on June 18, 2016
  - 5) Application for License to Sell Soda Water Beverages for S.V.E.V. D'Oberlandler
- V. Communications
- VI. Committee Reports
  - 1) Building Board
  - 2) Finance Committee
  - 3) Park & Recreation Commission
- VII. Report of the Administrator
- VIII. New Business
  - (A) Discussion and Possible Action on an Application for a Permit to Pave or Alter Portions of Village Right-of-Way from Bryan Pfaff, 5220 N. 125<sup>th</sup> St.
  - (B) Discussion and Possible Action on a Street Use Permit for Milwaukee Harley/Chaz Hastings for a Car Show Fundraiser and Family Activities on September 11, 2016, September 10, 2017, September 9, 2018, and September 8, 2019.
- IX. Adjournment

Dated: April 1, 2016

**VILLAGE OF BUTLER**

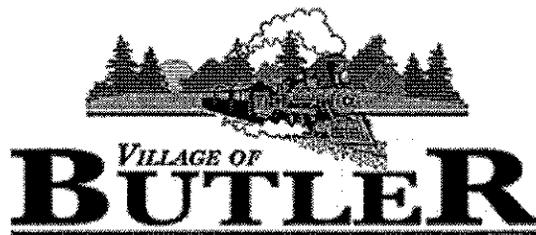
\_\_\_\_\_  
 Patricia Tiarks, President

\_\_\_\_\_  
 Kayla Chadwick, Administrator/ Clerk

Notice: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to in the above notice.

Please note that, upon reasonable notice, good faith efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Administrator /Clerk at 262-783-2525 at least 24 hours in advance of the meeting.

**To:** President Tiarks  
Village Board of Trustees  
**From:** Kayla Chadwick, Village Administrator  
**Date:** April 1, 2016  
**Re:** April 4<sup>th</sup> Supplemental Agenda



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VIII. New Business

- (A) Discussion and Possible Action on an Application for a Permit to Pave or Alter Portions of Village Right-of-Way from Bryan Pfaff, 5220 N. 125th St.

Please see the application included in your packet. This is a request to pave a small portion of Right-of-Way on the property similar to other businesses in the area.

***Staff recommends approval.***

- (B) Discussion and Possible Action on a Street Use Permit for Milwaukee Harley/Chaz Hastings for a Car Show Fundraiser and Family Activities on September 11, 2016, September 10, 2017, September 9, 2018, and September 8, 2019.

This agenda item is the tabled item from the March 15<sup>th</sup> Meeting as well as permits for the 2017-2019 Shows that were applied and paid for on March 2, 2016.

As I noted during the March 15<sup>th</sup> meeting, it was my opinion that the Village has no reason to believe that the submitted application meets any of the requirements under Section 7-7-1 of the Municipal Code for denial of the applications. After the meeting I discussed the issue with Village Attorney Paul Alexy. Attorney Alexy agrees with my position that the Village Board has no grounds to deny the permit. I have included Attorney Alexy's opinion in your packet for review.

Additionally, there are no prohibition in the Code against applying for street closure permits for future years.

Todd Hall from Milwaukee Harley/RIDE Entertainment Group will be in attendance at the meeting.

We can discuss further during the meeting, but given my opinion and Attorney Alexy's opinion the Board has no legal ground to deny the permits.

***Staff recommends approval.***

## OF THE BUTLER VILLAGE BOARD

*Minutes not formally approved until Regular Board Meeting on April 4, 2016.*

Village President Patricia Tiarks called the Board Meeting to order at 7:00 PM at the Village Hall Board Room.

ROLL CALL

Present: Village President Patricia Tiarks, Paul Kasdorf, Marc Van Gompel, William Benjamin, Michael Thew and Dave Hesselgrave

Excused: Jodi Kessel Szpizar

Also present: Administrator Kayla Chadwick and Police Chief Wentlandt

PERSONS DESIRING TO BE HEARD:

Sue Hesselgrave, 4619 N. 127 Street, spoke about Hot Rods on Hampton issue, and her history of organizing the event, and her beliefs about the benefits to Butler.

Carl Sabourin, 12818 W. Stark Street, said car show should continue as Building a Better Butler.

Dennis Hassel, 4963 N. 127 Street, said car show is for Butler by Butler. He believes Chaz Hastings wants to line his pockets.

Rodger Schnell, Menomonee Falls, said Chaz Hastings events attract a different crowd. The car show is a family event.

Greg Hummer, Milwaukee, indicated it takes a great deal of money and effort to get car shows off the ground.

David Snow, 12835 W. Lancaster Ave., Building a Better Butler is a great organization, created a tighter village; never had any problems. He is suspicious of Chaz Hastings.

Karen Gundrum, 12839 W. Colfax Place, agrees with David Snow's comment.

Wayne Jameson, 5022 N. 127 Street, he indicated we all have seen what the car show brings to Butler. Doesn't believe Chaz Hastings has Butler's best interests in mind. .

Annette Andlar, 4900 N. 126 Street, she said people should show up to Village Board meetings for other reasons and find out really what the issues of Butler is. Noted that Sue Hesselgrave has made comments about her to Mr. Hastings in the past.

Jeanne Briggs, 12902 W. Lancaster Ave., believes the Village should have Mr. Hastings pick a new day.

CONSENT AGENDA:

1. Approval of Village Board minutes – March 1, 2016
2. Current Invoices - \$869,839.88
3. February Statement of Revenues and Expenditures
4. Bartender's Licenses – Temporary – Ralph W. Culver, St. Agnes Smelt Fry
5. Application for License to Sell Soda Water Beverages for Sno Birds Snowmobile Club on April 15, 2016
6. Application for Temporary Class "B"/"Class B" Retailer's License for Sno Birds Snowmobile Club on April 15, 2016 for Smelt Fry
7. Street Use Permit for Milwaukee Harley/Chaz Hastings for a Car Show Fundraiser and Family Activities on September 11, 2016
8. February Department Reports

OF THE BUTLER VILLAGE BOARD

## 9. MS4 Annual Storm Water Report

Trustee Hesselgrave requested Item #7 be put on the agenda under New Business for discussion.

Motion by Kasdorf; second by Van Gompel to approve Consent Agenda. Motion carried unanimously. Benjamin and Thew abstained.

COMMUNICATIONS: None

COMMITTEE REPORTSPublic Safety Committee

Trustee Kasdorf reported on the Police and Fire Departments. The Police Department hired a new officer, Victor Herpin. He comes to Butler from UWM Police Department.

Finance Committee

Trustee Thew reported the current invoices were \$869,839.88 and approved. The February Statement of Revenues and Expenditures were approved.

Library Board

There was no Library Board report.

REPORT OF THE ADMINISTRATOR - Administrator Chadwick reported on the Presidential Preference & Spring Election being held on April 5, 2016; therefore, the Village Board meeting will be held on Monday, April 4, 2016 and informed the Board of the upcoming road construction on 132<sup>nd</sup> Street.

NEW BUSINESS

- (A) Street Use Permit for Milwaukee Harley/Chaz Hastings for a Car Show Fundraiser and Family Activities on September 11, 2016.

Motion by Kasdorf; second by Tiarks to approve Street Use Permit for Milwaukee Harley/Chaz Hastings for a Car Show fundraiser and Family Activities on September 11, 2016. Motion failed.

Motion by Van Gompel to table Street Use Permit for Milwaukee Harley/Chaz Hastings for a Car Show fundraiser and Family Activities on September 11, 2016 until the next Village Board meeting on April 4, 2016; second by Thew. Motion carried unanimously.

- (B) Public Hearing on Request for a Conditional Use Permit for Heather Siegel, d.b.a.American Fireworks and Novelties L.L.C., 1330 Edwards Street, Brookfield, WI 53005 to provide retail sale of Firework Novelties according to local and state laws from Canopy Tent for Less than 30 days at 12850 W. Silver Spring Drive, pursuant to Title 7, Chapter 6, Section 7-6-1 SubSection (f) of the Village of Butler Code of Ordinances. The property is Zoned M-3, Heavy Industrial District.

Village President Tiarks opened the Public Hearing at 7:34 PM.

Applicants representative spoke to Village Board requesting approval of Conditional Use Permit. No other comments were made.

Village President Tiarks closed the Public Hearing at 7:36 PM.

OF THE BUTLER VILLAGE BOARD

(C) Motion by Thew; second by Benjamin to approve a Conditional Use Permit for Heather Siegel, d.b.a.American Fireworks and Novelties L.L.C., 1330 Edwards Street, Brookfield, WI 53005 to provide retail sale of Firework Novelties according to local and state laws from Canopy Tent for Less than 30 days at 12850 W. Silver Spring Drive, pursuant to Title 7, Chapter 6, Section 7-6-1 SubSection (f) of the Village of Butler Code of Ordinances, with a requirement of an updated certificate of insurance. The property is Zoned M-3, Heavy Industrial District. Motion carried unanimously.

(D) Discussion on Section 13-1-125 (e) and (f) of the Municipal Code regarding dumpster enclosures.

The Village Board directed the Administrator to explore alternative ordinances and present options to the Board at a later date.

(E) The swearing-in ceremony for Police Officer Victor Herpin took place.

ADJOURNMENT

Motion by Thew; second by Benjamin to adjourn. Motion carried unanimously. The meeting was adjourned at 7:46 PM.

Submitted by:  
Kayla Chadwick, Village Administrator/Clerk

Approval Date: \_\_\_\_\_

Correction/Amendment:

# APPLICATION FOR TEMPORARY CLASS "B"/"CLASS B" RETAILER'S LICENSE

See Additional Information on reverse side. Contact the municipal clerk if you have questions.

FEE \$ 10.00

Application Date: 3/17/16

Town  Village  City of BUTLER County of WAUKESHA

The named organization applies for: (check appropriate box(es).)

A Temporary Class "B" license to sell fermented malt beverages at picnics or similar gatherings under s. 125.26(6), Wis. Stats.

A Temporary "Class B" license to sell wine at picnics or similar gatherings under s. 125.51(10), Wis. Stats. 2 pm to 11 PM  
 at the premises described below during a special event beginning June 18, 16 and ending June 18, 16 and agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

1. ORGANIZATION (check appropriate box)  Bona fide Club  Church  Lodge/Society  Veteran's Organization  Fair Association

(a) Name S.V.E.V. D'Oberlander

(b) Address P.O. Box 342567 Milwaukee, WI 53234  
(Street)

(c) Date organized 1928  Town  Village  City

(d) If corporation, give date of incorporation April 1928

(e) If the named organization is not required to hold a Wisconsin seller's permit pursuant to s. 77.54 (7m), Wis. Stats., check this box:

(f) Names and addresses of all officers:

President Cindy Hartz 4408 S. Griffin, Milw 53027

Vice President Tom Brzykcy Eau Claire

Secretary Darlene Behr 2472 N. 59th Milw 53210

Treasurer Carl Brzykcy 3280 Montilla Ct, Brookfield

(g) Name and address of manager or person in charge of affair: Mike Brower 2042 N. 49th St Milw 53208

2. LOCATION OF PREMISES WHERE BEER AND/OR WINE WILL BE SOLD: 3-18-16 10:51a

(a) Street number Frontier Park Pavilion \$55.00

(b) Lot \_\_\_\_\_ Block \_\_\_\_\_ Transaction 15514

(c) Do premises occupy all or part of building? All BARTENDERS LICENSE-TEMPORARY \$5.00

(d) If part of building, describe fully all premises covered under this application, which floor or floors, or room or rooms, license is to cover: PICNIC LICENSE \$10.00  
SODA LICENSE \$5.00  
COMMUNITY BUILDING FEES \$35.00

3. NAME OF EVENT "An Ancient Tradition"

(a) List name of the event Sonnwend Feuer

(b) Dates of event June 18, 2016

### DECLARATION

The Officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief.

Officer [Signature] 3/16/16  
(Signature/date)

S.V.E.V. D'Oberlander  
(Name of Organization)

Officer Darlene G. Behr 3/16/16  
(Signature/date)

Officer [Signature] 3/16/16  
(Signature/date)

Officer Cynthia L. Hartz  
(Signature/date)

Date Filed with Clerk \_\_\_\_\_

Date Reported to Council or Board 3-16-16

Date Granted by Council \_\_\_\_\_

License No. \_\_\_\_\_



## PUBLIC NOTICE

Meeting - Building Board  
Monday, April 4, 2016  
6:35 PM – Village Hall Board Room

**PLEASE TAKE NOTICE** that a Regular Meeting of the Butler Building Board will be held on the 4th day of April, 2016, at 6:35 PM at the Village Hall Board Room, 12621 W. Hampton Avenue, Butler, Wisconsin, at which time and place the following items of business will be considered and possibly acted upon.

- I. Roll Call
  - II. Persons Desiring to be Heard
  - III. Consideration of Minutes  
March 1, 2016 Building Board
  - IV. New Business:
    1. Occupancy Permit
      - a. BD3's Car Care (Bryant), 4712 N. 125 Street
  - V. Adjournment
- Dated: April 1, 2016

William Benjamin  
Chairman  
Building Board

BY: Kayla Chadwick  
Administrator/Clerk

Notice: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to in the above notice.

Please note that, upon reasonable notice, good faith efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Administrator/Clerk at 262/783-2525 at least 24 hours in advance of the meeting.

*Minutes not formally approved until the next Building Board Meeting on April 4, 2016*

The meeting was called to order at 6:38 PM.

**ROLL CALL**

Present: Kasdorf, Klibowitz and Hesselgrave

Excused: Benjamin

Also present: Village Administrator Chadwick, Village President Tiarks, Trustees Hesselgrave  
Thew, Van Gompel, and Szpiszar

**PERSONS DESIRING TO BE HEARD** - None

**CONSIDERATION OF MINUTES**

Motion by Kasdorf; second by Klibowitz to approve February 2, 2016 Building Board minutes.  
Motion carried 3-0.

**NEW BUSINESS:**

Building Permits:

Motion by Kasdorf; second by Klibowitz to approve building permit for a sign at 4712 N. 125 Street. Motion  
carried 3-0.

Motion by Kasdorf; second by Klibowitz to approve building permit for storage lot with fence, awnings and  
overhead door at 4712 N. 125 Street. Motion carried 3-0.

**ADJOURNMENT**

Motion by Kasdorf to adjourn; second by Klibowitzz. Motion carried 3-0. The meeting was adjourned at  
6:46 PM.

\_\_\_\_\_  
William Benjamin  
Chairman  
Building Board

\_\_\_\_\_  
Kayla Chadwick  
Village Administrator/Clerk

## PUBLIC NOTICE

Meeting - Finance Committee  
Monday, April 4, 2016  
6:50 PM – Village Hall Board Room

PLEASE TAKE NOTICE that a regular meeting of the Butler Finance Committee will be held on the 4th day of April, 2016 at 6:50 PM at the Village Hall Board Room, 12621 W. Hampton Avenue, Butler, Wisconsin, at which time and place the following items of business will be considered and possibly acted upon.

- I. Roll Call
- II. Persons Desiring to be Heard
- III. Consideration of Minutes – March 1, 2016 and March 15, 2015
- IV. Old Business:
- V. New Business:
  1. Review and Approve Current Invoices.
- VI. Adjournment

Dated: April 1, 2016

Michael Thew  
Chairman  
Finance Committee

BY: Kayla Chadwick  
Administrator/Clerk

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Please note that, upon reasonable notice, good faith efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Administrator/Clerk at 262/783-2525 at least 24 hours in advance of the meeting.

March 15, 2016

*Minutes not formally approved until the next Regular Board Meeting on April 4, 2016.*

The Meeting was called to order at 6:50 PM.

**ROLL CALL**

Present: Thew and Van Gompel

Excused: Szpizar

Also Present: Administrator Chadwick, Village President Tiarks, Trustees Kasdorf, Benjamin and Hesselgrave

**PERSONS DESIRING TO BE HEARD:**

None

**CONSIDERATION OF MINUTES:**

The March 1, 2016 Finance Committee minutes have been tabled and will be approved at the next meeting.

**NEW BUSINESS**

1. Motion by Thew; second by Van Gompel to approve current invoices as presented for \$869,839.88. Motion carried 2-0.
2. Motion by Van Gompel; second by Thew to approve February Statement of Revenues and Expenditures. Motion carried 2-0.

**ADJOURNMENT**

Motion by Van Gompel; second by Thew to adjourn the Finance committee meeting. Motion carried 2-0. The meeting adjourned at 6:52 PM.

\_\_\_\_\_  
Michael Thew  
Chairman  
Finance Committee

\_\_\_\_\_  
Kayla Chadwick  
Village Administrator/Clerk

*Minutes not formally approved until the next Regular Board Meeting on March 15, 2016.*

The Meeting was called to order at 6:50 PM.

**ROLL CALL**

Present: Szpizar and Van Gompel

Excused: Thew

Also Present: Administrator Chadwick, Village President Tiarks, Trustees Kasdorf and Hesselgrave

**PERSONS DESIRING TO BE HEARD:**

None

**CONSIDERATION OF MINUTES:**

Motion by Van Gompel; second by Szpizar to approve the February 2, 2016 Finance Committee Meeting minutes. Motion carried 2-0.

**NEW BUSINESS**

1. Motion by Van Gompel; second by Szpizar to approve current invoices as presented for \$2,041,197.94. Motion carried 2-0.
2. Motion by Van Gompel; second by Szpizar to approve January Statement of Revenues and Expenditures. Motion carried 2-0.

**ADJOURNMENT**

Motion by Szpizar; second by Van Gompel to adjourn the Finance committee meeting. Motion carried 2-0. The meeting adjourned at 6:56 PM.

\_\_\_\_\_  
Michael Thew  
Chairman  
Finance Committee

\_\_\_\_\_  
Kayla Chadwick  
Village Administrator/Clerk

VILLAGE OF BUTLER  
12621 West Hampton Avenue  
Butler, Wisconsin 53007  
(262) 783-2525

SECTION 6-2-19 AND/OR SECTION 13-1-96

FEE: \$50.00

No. \_\_\_\_\_

APPLICATION FOR PERMIT TO PAVE OR ALTER PORTIONS OF  
VILLAGE RIGHT-OF-WAY OR TO CONSTRUCT ENCROACHMENTS  
THEREON, PURSUANT TO SECTIONS 6-2-19 AND/OR 13-1-96  
OF THE MUNICIPAL CODE.

Transaction 15416  
BUILDING/BUSINESS PERMITS  
\$50.00

Name of Applicant BD of Jackson Bryan Pfaff

Location 5220 N 125th St  
Butler WI 53007

Telephone 262-674-4241

Mailing Address (If different from above) P.O. Box 0657 Butler WI 53007

If corporation or partnership, give names and addresses of officers/partners:

| Name and Title (if applicable) | Address |
|--------------------------------|---------|
| _____                          | _____   |
| _____                          | _____   |
| _____                          | _____   |
| _____                          | _____   |

Nature of use of buildings (if any) on non-right-of-way portion of premises:

\_\_\_\_\_

Exact description of proposed paving, alteration or encroachment (attach scale drawing with dimensions of lot or lots involved, the right-of-way portion of same, and the proposed location of paving, alteration or encroachment).

Install 4" asphalt from end of building to street from  
loading dock stairs to lot line

\_\_\_\_\_

Are you also requesting permission to park on the right-of-way? Yes

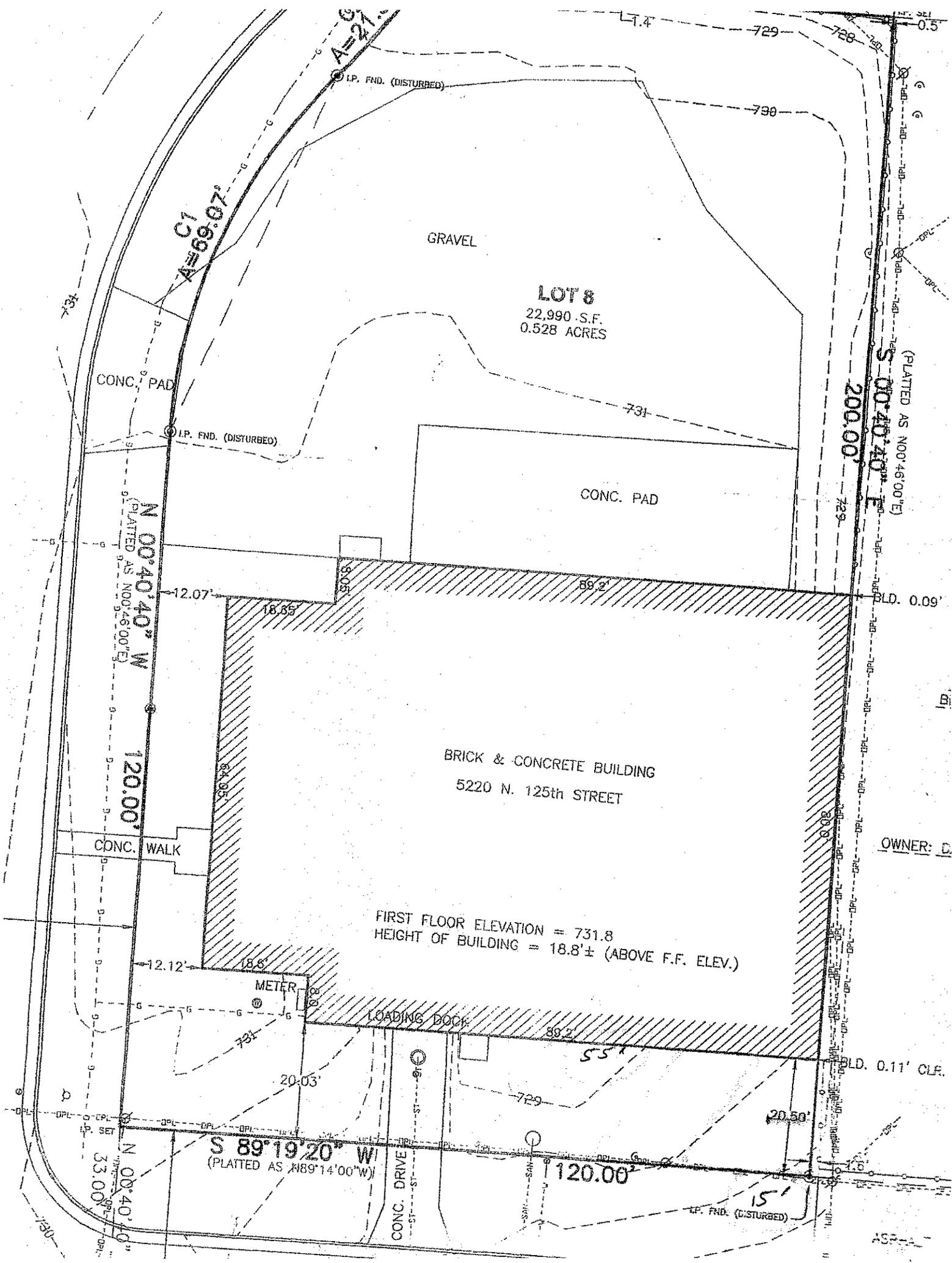
The undersigned, as Applicant, herewith applies for a permit to pave or alter certain portions of the public right-of-ways of the Village of Butler, or to construct encroachments thereon, as described above, and as consideration for the granting of said permit by the Village Board, further agrees to the following terms and conditions, all pursuant to Sections 6-2-19 and/or 13-1-96 of the Municipal Code of Ordinances and as it may be amended in the future. By this Agreement, the Village retains all rights in the land which is the subject of this Agreement (including the continuation of the status of such land as part of the public right-of-ways of the Village) except as may be expressly provided herein. The Village expressly retains the right to use or permit others to use the right-of-way for utility purposes. Whenever such right-of-ways are used for utility purposes, there shall be no obligation on the part of the Village or any Municipal utility to restore the area of work or installation beyond backfilling it to grade.

1. Indemnification. The Applicant agrees to be liable for, and to hold the Village harmless from, all damages which occur during the progress of the construction of any paving, alteration or encroachment or which subsequently results from said construction. The Applicant further agrees to be liable for, and to hold the Village harmless from, all damages which result from either the existence or the maintenance of the paving, alteration or encroachment.
2. The Applicant agrees to indemnify and hold harmless the Village, its agents or employees, for any claim arising from the use of such right-of-way, including any costs and attorney fees associated with such claim. This obligation shall be assumed by any subsequent transferee of the premises abutting the Village land.
3. Maintenance. The Applicant further agrees to construct and maintain the paving, alteration or encroachment exactly as described in this Application for Permit, and also in accordance with the ordinances, rules and regulations of the Village, and to perform and complete all work thereon to the satisfaction of the Village including replacing any damaged surface and shall restripe or repaint markings as may be necessary to facilitate an orderly use of all parking spaces developed.
4. Parallel Parking. The Village shall not enforce any parallel parking obstructions which may impede angle parking unless a duly enacted ordinance restricts parallel parking and appropriate signage is installed. The Village will consider the enactment of such restrictions at the request of Applicant, but any signage installed shall not be at the expense of the Village and shall conform to all state recommended standards. In the event that the Village enacts any restrictions regarding parallel parking, it shall have an unrestricted right to repeal or modify such restrictions without any consent by the Applicant.
5. Parking Procedure. All vehicles parked in parking spaces created with Village land shall conform to the parking markings and shall not extend beyond the curb edge on the outside of the street.

6. Consideration. The Applicant shall not have to pay any monetary consideration to the Village for the permission granted herein, but must grant the public permission to utilize any parking space created by incorporation of Village land.
7. The Applicant further agrees to observe any additional special limitations which are imposed by the Village Board as a condition of granting the permit requested in this Application for Permit.
8. Enforcement Costs. In the event that the Applicant does not comply with any provisions of this Agreement, the Village may terminate this Agreement at will upon ten (10) days written notice. Within thirty (30) days following receipt of such notice, Applicant shall thereupon restore the above-described right of way area by removing any parking surface regardless of material and installing grass or landscaping to the Village land in a manner acceptable to the village as approved by the Director of Public Works. Applicant further agrees to pay any attorney fees incurred by the Village associated with the seeking of compliance with this Agreement.
9. Recording of Agreement. This Agreement shall be prepared and recorded at the expense of the Applicant.

Termination. The Applicant further agrees that any permit granted is terminable at will by the Village Board whenever the Village Board determines that it is in the public interest that the paving, alteration or encroachment be removed from the public right-of-way, in whole or in part; or allow the area to remain in the paved or altered condition, but no longer allow parking on the paved or altered area. In the event of termination, the Applicant agrees to promptly remove, at his own expense, the paving, alteration or encroachment, and to restore the public right-of-way as nearly as practicable to its former condition in a manner acceptable to the Village as approved by the Director of Public Works, if the Village Board determines that the area should be so restored.





LOT 8  
22,990 S.F.  
0.528 ACRES

GRAVEL

CONC. PAD

BRICK & CONCRETE BUILDING  
5220 N. 125th STREET

FIRST FLOOR ELEVATION = 731.8  
HEIGHT OF BUILDING = 18.8± (ABOVE F.F. ELEV.)

OWNER: D.

CONC. PAD

CONC. WALK

LOADING DOCK

CONC. DRIVE

N 00°40'40" W  
(PLATTED AS N00°46'00"E)  
120.00'

S 89°19'20" W  
(PLATTED AS N89°14'00"W)

S 00°40'40" E  
200.00'

120.00'

C1  
A=69.07'

A=27.1'

N 00°40'40" W  
33.00'

I.P. FND. (DISTURBED)

I.P. FND. (DISTURBED)

I.P. FND. (DISTURBED)

BLD. 0.09'

BLD. 0.11' CLF.

ASPLA



LAW OFFICES OF  
**ARENZ, MOLTER,  
MACY, RIFFLE & LARSON, S.C.**

720 N. EAST AVENUE  
P.O. BOX 1348  
WAUKESHA, WISCONSIN 53187-1348  
Telephone (262)548-1340  
Facsimile (262)548-9211  
Email: palexy@ammr.net

DALE W. ARENZ, RETIRED  
DONALD S. MOLTER, JR.  
JOHN P. MACY,  
COURT COMMISSIONER  
H. STANLEY RIFFLE,  
COURT COMMISSIONER  
ERIC J. LARSON

RICK D. TRINDL  
PAUL E. ALEXY  
R. VALJON ANDERSON  
REMZY BITAR  
MATTEO REGINATO

March 23, 2016

Village Board of Trustees  
Village of Butler  
12621 W. Hampton Ave.  
Butler, WI 53007

**Re: Village of Butler  
Street Use Permits  
Request by Milwaukee Harley/Chaz Hastings for a Car Show Fundraiser and  
Family Activities on September 11, 2016**

Ladies and Gentlemen:

The Village Administrator has contacted me on your behalf to request that we provide an opinion concerning the Village Board's consideration of the above-referenced street use permit. I have had an opportunity to carefully consider this matter.

Based upon our review, I have the following comments in this regard:

1. As we understand the facts, the above-referenced permit application was scheduled for consideration at the Village Board's March 15, 2016 regular meeting. I also understand that a question arose at that meeting as to the propriety of the Village Board granting the requested permit since, in prior years, a different organization had applied for a street permit for a car show on the same weekend of the year. I further understand that there is some reason to believe that the past permit recipient may have intended to apply for a permit again this year.
2. As you know, Street Use Permits in the Village are provided for under Sec. 7-7-1 of the Village Code of Ordinances. As stated in Sec. 7-7-1(a), the Village streets "are *primarily* for the use of the public in the ordinary way" (i.e. for vehicular and pedestrian traffic) but, "under proper circumstances", a permit for street use may be granted "subject to reasonable municipal regulation and control, such as for a block party."
3. The application requirements for a Street Use Permit are set forth in Sec. 7-7-1(b) and an additional requirement concerning attendance at the meeting for consideration is set forth in Sec. 7-7-1(c). As I understand the facts, no questions have arisen as to whether the current applicant has met the requirements in those two subsections. Since the grant or denial of a license or permit by a municipal corporation must be done in conformity with the terms of the statute conferring the licensing power *and* in

LAW OFFICES OF  
**ARENZ, MOLTER, MACY, RIFFLE & LARSON, S.C.**

Village Board of Trustees  
March 23, 2016  
Page 2

accordance with applicable municipal ordinances and regulations, the possible reasons for denial of a permit set forth in Sec. 7-7-1(d)(1)-(6) must be examined.

4. Under Sec.7-7-1(d), a permit "may be denied if":
  1. The proposed street use is primarily for private or commercial gain.
  2. The proposed street use would violate any federal or state law or any Ordinance of the Village.
  3. The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
  4. The application for a Street Use Permit does not contain the information required above [in Sec. 7-7-1(b)].
  5. The application requests a period for the use of the street in excess of five (5) days.
  6. The proposed use could equally be held in a public park or other location.

Beyond the six specifically enumerated reasons, subsection (d)(6) includes a statement that a Street use permit "may" be denied by the Village Board for any other reason(s) "if it concludes that the health, safety and general welfare of the public cannot be adequately protected and maintained if a permit is granted."

5. The Village's authority to issue licenses and permits arises under its "police powers" to regulate for the public health, safety and welfare. Those powers, however, are not without limits. The Village Board must act on an application for a license in accordance with the regulations that are then in effect and then grant or deny the application according to its merits.<sup>1</sup> Although decisions made by municipal authorities on applications for licenses or permits are presumed to be valid, courts will act where there has been an abuse of discretion or power, unreasonableness or capriciousness, error of law, or other similar reasons. As stated by the Wisconsin Supreme Court in *O'Neil v. Town of Hallie* (19 Wis. 2d 558 120 N.W.2d 641(1963)), "It is a fundamental rule of law that arbitrary administration of an ordinance contravenes the provisions of the Fourteenth Amendment relating to due process and equal protection of the laws. In *Town of Hallie*, the supreme court determined that the Town Board had acted in violation of O'Neil's equal protection rights and in an arbitrary and capricious manner when it denied a license for a new outdoor theater based upon objections that were

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<sup>1</sup> Public sentiment may be considered in deciding whether to issue a license *if* the public objections are based on legitimate governmental interests related to the public health, safety or welfare (e.g. traffic, safety, crime, noise, etc.) related to the particular application at hand.

LAW OFFICES OF  
**ARENZ, MOLTER, MACY, RIFFLE & LARSON, S.C.**

Village Board of Trustees

March 23, 2016

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equally applicable to an outdoor theater that had already been licensed by the Town. Based upon the facts presented to us, we understand that the current applicant has met all of the stated requirements and that there are no potential objections that would not have also applied to the previous applicant. Therefore, although some public sentiment in favor of the prior years' applicant was apparently expressed at the time of the Board's consideration, this would not be a permissible basis for denial under Sec. 7-7-1 of the Village Code. Accordingly, unless the Board is aware of some specific reason for denial set forth in Sec. 7-7-1(d)(1) – (6), or some specific public health, safety, or welfare concerns particular to this application that cannot be maintained if this permit is granted, the existing ordinance provisions would require that the license be granted.

Please contact me with any questions you may have.

Thank you for the opportunity to be of assistance to the Village of Butler in this regard.

Yours very truly,

ARENZ, MOLTER, MACY,  
RIFFLE & LARSON, S.C.

*Paul E. Alexy*

Paul E. Alexy

PA/

cc: Kayla Chadwick, Village Administrator

/Users/PaulAlexy/Documents/Users/Paul/Documents/My Documents/My Files/Butler, Village of/General Government/Village Board/Permits-Licenses/VB Street Permit Denial Ltr 032316.docx

TODD  
847-778  
0653

**STREET USE PERMIT**  
**(Block Parties, Organizational Events)**

Municipal Code Reference: Section 7-7-1

Fee: \$ 25.00

Applicant Information: Bothers Up / Milwaukee Harley / Chaz Hastings  
Business / Organization / Individual

12504 W. Hampton  
Address

TODD Hall  
Contact Person

847 778 0653  
Telephone

2-19-16 8:53a  
\$25.00  
Transaction 15224  
OTHER PERMITS \$25.00

Event date: 9/11 / 2016

Time of Event: From TBD 11am to 5pm TBD

Proposed Street to be Used: Hampton  
Street Name(s)

Approximate number of persons using the proposed street area: 500 - 1000

Describe in detail the proposed use: CAR SHOW, fundraiser  
w/ games, music and family  
activities

**FOR VILLAGE USE ONLY**

Certificate of Comprehensive General Liability Insurance Required:  Yes  No

Performance Bond Required:  Yes  No

Special Conditions: \_\_\_\_\_  
\_\_\_\_\_

Village Board Approval: Signature \_\_\_\_\_ Date \_\_\_\_\_

## Kayla Chadwick

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**From:** Todd Hall <toddhall00@gmail.com>  
**Sent:** Thursday, March 10, 2016 11:15 AM  
**To:** Kayla Chadwick  
**Subject:** Streets to close

Please close the following for our street permit. Hampton Ave from 124th to 127th, 126th from North Alley to South Alley, 125th from North Alley to Courtland, Derby Ave from East Alley to 126th.

Sent from my iPhone

**STREET USE PERMIT**  
**(Block Parties, Organizational Events)**

Municipal Code Reference: Section 7-7-1

Fee: \$ 25.00

Applicant Information: Bottoms Up Tavern/MKE Hancy  
Business / Organization / Individual

12504 W Hampton Ave Butler WI 53007  
Address

Todd Hall  
Contact Person

847 779 0653  
Telephone

Event date: 9/10/17 3-2-16 3:54p  
\$75.00

Time of Event: From 6AM to 6PM  
Transaction 15371  
OTHER PERMITS \$25.00  
OTHER PERMITS \$25.00  
OTHER PERMITS \$25.00

Proposed Street to be Used: Hampton (124-127) 126<sup>th</sup> from N. Alley  
Street Name(s)

to South Alley, 125<sup>th</sup> from N. Alley to Courtyard, Derby from E Alley  
Approximate number of persons using the proposed street area: 2,000 to 126<sup>th</sup>

Describe in detail the proposed use: Hot Rods on Hampton  
car show

**FOR VILLAGE USE ONLY**

Certificate of Comprehensive General Liability Insurance Required:  Yes  No

Performance Bond Required:  Yes  No

Special Conditions: \_\_\_\_\_  
\_\_\_\_\_

Village Board Approval: Signature \_\_\_\_\_ Date \_\_\_\_\_

**STREET USE PERMIT**  
**(Block Parties, Organizational Events)**

Municipal Code Reference: Section 7-7-1

Fee: \$ 25.00

Applicant Information: Bottoms Up Tavern/Mike Harvey  
Business / Organization / Individual

12504 W Hampton Ave Butler WI 53007  
Address

Todd Hall 3-2-16 3:54p  
Contact Person \$75.00

847-778-0653  
Telephone

Transaction 15371  
OTHER PERMITS \$25.00  
OTHER PERMITS \$25.00  
OTHER PERMITS \$25.00

Event date: 9/9/18

Time of Event: From 6AM to 6PM

Proposed Street to be Used: Hampton (124-127), 126th from N. Alley to S. Alley  
Street Name(s)

125th from N. Alley to Courtland, Derby from E Alley to 126th  
Approximate number of persons using the proposed street area: 2000

Describe in detail the proposed use: Hot Rods on Hampton  
car show

**FOR VILLAGE USE ONLY**

Certificate of Comprehensive General Liability Insurance Required:  Yes  No

Performance Bond Required:  Yes  No

Special Conditions: \_\_\_\_\_  
\_\_\_\_\_

Village Board Approval: Signature \_\_\_\_\_ Date \_\_\_\_\_

**STREET USE PERMIT**  
**(Block Parties, Organizational Events)**

Municipal Code Reference: Section 7-7-1

Fee: \$ 25.00

Applicant Information: Bottoms Up Tavern / Mike Hanley  
Business / Organization / Individual

12504 W Hampton Ave Butler WI 53007  
Address

Todd Hall 3-2-16 3:54p  
Contact Person \$75.00

847-778-0653  
Telephone Transaction 15371  
OTHER PERMITS \$25.00  
OTHER PERMITS \$25.00  
OTHER PERMITS \$25.00

Event date: 9/8/19

Time of Event: From 6AM to 6PM

Proposed Street to be Used: Hampton (124-127), 125th from N. Alley to S. Alley  
Street Name(s)

125th from N. Alley to Courtland, Derby from E. Alley to 125th  
Approximate number of persons using the proposed street area: 2000

Describe in detail the proposed use: Hot Rods on Hampton  
car show.

**FOR VILLAGE USE ONLY**

Certificate of Comprehensive General Liability Insurance Required:  Yes  No

Performance Bond Required:  Yes  No

Special Conditions: \_\_\_\_\_  
\_\_\_\_\_

Village Board Approval: Signature \_\_\_\_\_ Date \_\_\_\_\_