

VILLAGE OF HEWITT

Hewitt, Wisconsin 54441

Ordinance 10.01

RULES GOVERNING THE FUNCTIONS OF THE VILLAGE OF HEWITT

To establish rules governing the functions of the Village Board of the Village of Hewitt. This is in accordance with Chs. 61, 62 and 64 of the Wisconsin State Statutes, the Charter Laws and Sections 19.81 to 19.84 Stats. pertaining to meetings of the Village governing body.

The Village Board of the Village of Hewitt, Wood County, Wisconsin, does ordain:

SECTION 1 - GENERAL

RULE 1:

The Village President shall be by virtue of his office, preside at all meetings of the Board. In his absence the Board may select another Trustee to preside. Note the following:

- A. Whenever the presiding officer shall desire to speak upon any question or to make any motion, he shall vacate the chair and designate a Trustee to preside temporarily.
- B. The President shall have a vote on all matters presented to the Board.
- C. The President shall have no veto power.

RULE 2:

A majority of the members elect of the Village Board constitutes a quorum for Village Board meetings. If a quorum is not present, the meeting shall thereupon adjourn to a time certain under Sec. 32 Stats.

RULE 3:

In the absence of the Clerk, the Clerk shall appoint a Clerk pro tem, or the Board may appoint a Clerk pro tem under 61.19 Stats.

RULE 4:

The President at the stated hour shall call the meeting to order. He shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with parliamentary rules contained in Roberts Rules of Order.

RULE 5:

All ordinances, resolutions, petitions should be submitted to the Board, in writing.

RULE 6:

Any Trustee may require the reading in full, any matter, at anytime it is before the Board.

RULE 7:

All ordinances must be signed by the President and countersigned by the Clerk after the third reading has been approved by a majority of the Village Board.

- A. All ordinances shall be posted prior to each reading in three designated locations within the Village of Hewitt.
- B. No less than 25 days shall elapse between the first and second reading, of any Ordinance brought before the Board. Amendments to any ordinance must also follow the above.
- C. Ordinances shall be signed by the Village President and Clerk and shall take effect 24 hours after passage.

RULE 8:

All bills and other financial claims shall be submitted to the Village Clerk for approval by the Village Board at least 24 hours prior to the monthly meeting.

RULE 9: The deliberations of the Board shall be conducted in the following manner:

- A. No Trustee shall address the Board until they has been recognized by the presiding officer. The Trustee shall thereupon address himself to the President and confine his remarks to the question under discussion and avoid all personalities.
- B. When two or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.
- C. No person other than a Board member shall address the Board, until such time the Board has had the opportunity to discuss the issue on the floor. If another person other than a Board member is given the floor, the issue will always be returned to the Board for discussion and possible action.
- D. No motion shall be discussed or acted upon unless and until it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same.

- E. When a question is under discussion, no action shall be in order, except: 1) to adjourn, 2) to lay on the table, 3) the previous question, 4) to postpone to a certain date, 5) to refer indefinitely, 6) to table. Items that were tabled will be on the agenda at the next ensuing regular meeting of the Board. These motions shall have precedence in the order listed.
- F. Any member desirous of terminating the debate may move the previous question, in which event the President shall announce the question "Shall the main question now be put?" If a majority of the members present vote in the affirmative, the main question shall be taken without further debate, its effect is to put an end to all debate and bring the Board to a direct vote, first upon any pending amendments, and then upon the main question.
- G. No general requirement for recording votes at the Village Board meetings is prescribed, however a roll call may be demanded by any Board member on any question and each members name and vote shall be put in the proceedings. A majority vote of all members of the Board in favor of any proposed ordinance, resolution, or appointment shall be necessary for passage or approval, unless a larger number is required by statute. Except as otherwise provided, a majority vote of those present shall prevail in other cases. Secret ballots are prohibited under Sec. 19.88 (1), Stats.
- H. A motion to adjourn shall always be in order. A motion to adjourn, to lay on the table and a call for the previous question shall be decided without debate.
- I. The Clerk and the Treasurer shall not have voting rights at any Board meeting with the exception of deciding whether or not to go into closed session.

RULE 10:

It shall be in order for any member voting in the majority to move for a reconsideration of the vote on any question at that meeting or at the succeeding regular meeting. A motion to reconsider being put and lost shall not be renewed. A Trustee may not change his vote on any question after the result has been announced.

RULE 11:

Within 10 days after each meeting of the Board, the Clerk shall supply to each Trustee a type written copy of the proceedings. By majority action of those present, the Board may dispense with the reading of the minutes at the ensuing meeting.

SECTION II

The following procedures shall govern the types of meetings conducted and committees thereof.

RULE 1. - REGULAR MEETINGS:

Regular meetings of the Hewitt Sanitary Utility and Village Boards, will be held on the second Tuesday, of every month, with the Sanitary Utility meeting beginning at 7:00 PM, and the Village Board meeting to start at the time stated on the published agenda, but not before 7:30 PM, of that same evening. Any regular meeting falling upon a legal holiday shall be held on the next following secular day, at the same hour and place unless otherwise designated by the Board. All meetings of the Board shall be held in the Village Hall, including special, closed and committee meetings. All regular meetings, special meetings and committee meetings shall be noticed under Sec. 19.84, Stats., of the Open Meeting Laws.

RULE 2. - SPECIAL MEETINGS:

Special meetings of the Village Board may be called by any two Trustees in writing, filed with the Clerk. The Clerk in turn, must notify all Board/Committee members of the special meeting as required in the bylaws. The clerk shall give at least 24 hours public notice prior to the time specified for such meeting, stating the date, time, and purpose of such meeting.

RULE 3. - CLOSED MEETINGS:

Meetings which are to include a closed discussion shall commence in open session before they can be closed. At the municipal level, closed sessions may be held to discuss or act on the following matters:

- A. Deliberations by the Village Board after the Board has held a judicial or quasi-judicial trial or hearing. A quasi-judicial hearing is a hearing conducted with most of the formality that characterizes a court hearing, as part of a quasi-judicial proceeding. A quasi-judicial proceeding is a process of fact gathering and decision making in which specific rights of individuals are being decided by a body that conducts proceedings and exercises discretion similar to that of a court. Coffey v. Milwaukee, 74 Wis. 2d 526, 247 N.W. 2d 132 (1976).

The word "deliberations" deserves emphasis. Deliberations are discussions by the Village Board of facts that were presented at hearings, contained in applications for relief, or gained through other fact gathering activities which were conducted by the Board before the start of closed deliberations. Deliberations do not include acquisition by the Board of new evidence or testimony.

- B. Consideration of the dismissal, demotion, licensing or discipline of 1) any public employee, 2) any person licensed by a Board or commission, evidentiary hearing which may be held prior to final action being taken. The notice shall contain a statement that the person has the right to demand the evidentiary hearing or meeting be held in open session. This exemption and exemption F do not apply to any such evidentiary hearing or meetings where the employee or person licensed requests that an open session be held.

This paragraph applies to sessions of a governing body held to discuss and act on the demotion or dismissal of one of its employees. It is possible to hold a closed session to handle such a matter. However, the staff person has to be given notice if such a session is an evidentiary hearing or involves formal action and can demand that the session be open.

- C. Consideration of employment, promotion, compensation or performance evaluation data of any public employee over which the Village has jurisdiction or supervisory responsibility.

This section could apply to discussions of the Village Board regarding hiring, performance, pay, etc., of staff persons for whom it has jurisdiction or supervisory responsibility.

- D. Consideration of specific applications of probation or parole or considering strategy for crime detection or prevention.
- E. Deliberation of or negotiation for the purchase of public properties, the investing of public funds or conducting other specific public business, whenever competitive or bargaining reasons require a closed session.
- F. Consideration of financial, medical, social or personal histories or disciplinary data on specific persons, preliminary consideration of specific personal problems or the investigation of charges against specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

For example, this exemption would apply to discussions of a liquor licensing committee regarding possible prosecution for an ordinance violation in which the alleged violator's history of noncompliance is being considered. It would also apply to discussions by a municipal housing authority regarding the financial ability of a particular developer to carry out promises made in connection with a project proposal. Note that in both cases it is the potential for damaging reputations through disclosure of personal data that justifies the holding of a closed meeting. On the other hand, if the information being reviewed as "past history" is already a part of the public record (court records on previous ordinance violations, for example), the argument cannot be made that discussing such "past history" at an open meeting will unduly damage the violator's reputation, since no information is being newly revealed.

- G. Conferring with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the Village Board with respect to litigation in which it is or is likely to become involved.
- H. Requests for confidential written advice from a local government ethics board.

An additional type of meeting, normally considered a public meeting, is given special dispensation within the law.

Bodies (multi-member entities) which are engaged in collective bargaining under the Municipal Employment Relations Act are exempt from the requirements of the open meeting law. Such entities are defined, for purposes of the law, as non-governmental bodies. As such, those entities can meet in closed session at will, without having to go through the procedural steps to close the meeting to the public. The unit engaged in collective bargaining also need not give notices of its sessions or otherwise obey the prescriptions of the open meeting laws.

There are two statutory limits to the blanket exemption given to units engaged in collective bargaining. One is that the final ratification or approval of a bargained union agreement must be considered and voted upon in open session Section 19.84(5), Stats. The second limit is that the press must be notified whenever an existing collective bargaining agreement is to be reopened at the expiration of the present contract. Section 19.86, Stats.

RULE 4. - CONTEMPLATED OR NON CONTEMPLATED CLOSED SESSION:

Closed sessions may either be contemplated; that is, preplanned and prepared for, or not contemplated; that is, impromptu and unplanned. Whether contemplated or not, all closed sessions of the Village Board are subject to the definitions, guidelines and procedural requirements in the law. Section 19.85 Stats., grants to governmental bodies the option of going into closed session for the deliberation on certain delicate or highly confidential matters. It does not require closed sessions. Closed sessions for allowable collective bargaining purposes need not be preceded by the notice and voting procedures described later.

RULE 5. - NOTICE OF CLOSED SESSIONS:

If it is known that the Board may go into closed session and if this knowledge is held by the presiding officer when the meeting notice is written, the possibility of a closed session must be listed as an agenda item. Section 19.84 Stats.

The Village Board may go into closed session without having the possibility specified on the meeting notice, if a member unexpectedly moves to go into closed session while the body is on some other agenda item, provided that the motion (and the subject matter proposed to be considered) is germane to an item legitimately under discussion. The chairperson would need to announce at the closed session the subject to be considered at the proposed closed session and the statutory exemption it falls under.

Section 19.84(6), Stats., allows a committee of a Village to meet during council or board meeting recesses, or directly after council or board meetings, to discuss or make decisions on matters that have come before that meeting of the governing body. Such meetings are exempted from the stricter advance notice requirements in sec. 19.84 Stats., but they must be announced (time, place and subject matter) by the Village President before the council or board recesses or adjourns.

RULE 6. - PROCEDURE FOR GOING INTO CLOSED SESSION:

The Village Board must convene in open session before going into closed session. Since closed sessions of the Village Board are usually not followed by open sessions on the same day, it is important that open session agenda items be covered as completely as possible before the closed session begins. A motion to go into closed session must be passed by a majority of the members of the Board through a roll call vote before a closed session can actually be held. The vote of each member must be recorded and preserved. The chief presiding officer of the Village Board must publicly announce the nature of the business to be discussed and the specific statutory subsection under which the closed session is claimed to be authorized, and these words must be preserved in the minutes.

RULE 7. - ATTENDANCE AT CLOSED SESSIONS:

Closed sessions may be attended by members of the Village Board, and in certain circumstances, the Board's staff and/or legal counsel. All members and representatives of the public, including the news media, may be excluded from legitimate closed sessions.

When a closed session is being held on those personnel matters for which closed sessions are permissible, it is legitimate for a departmental or supervisory staff member to attend and speak on the personnel question.

The concept of deliberation and attorney-client relationship may allow a body's lawyer to attend and give legal advice during any post hearing deliberative closed session.

Staff members probably may attend closed sessions without speaking upon invitation of a public body to take minutes, although to maintain good public relations and avoid the appearance of possibly influencing the decision, public bodies should be encouraged to take their own minutes in closed session.

RULE 8. - PROCEEDINGS OF CLOSED SESSIONS:

Once the Village Board has gone into closed session, it may discuss or consider only those subject matters specifically described in the exemptions section of the law. The Board may not change subjects or deliberate on matters that were not related to the topic mentioned in the announcement of the business to be dealt with and the exemption citation. The Village Board may, however, move from discussion to decision making (by vote or consensus) on most legitimate closed session topics.

RULE 9. - RECORDS OF CLOSED SESSION PROCEEDINGS:

Decisions of the Village Board made in closed session must be recorded. The record must show all motions made, who initiated and seconded the motions, and how each member voted on all votes taken by the Board. Section 19.88(3), Stats.

Although the open meeting law does not require that governmental units keep detailed minutes of all proceedings, it is advisable to write a fairly detailed statement of the rationale behind decisions made in any closed (or open) session. If the decision is taken to court, its ability to withstand examination will stand, to a large degree, on the quality of the written set of reasons that are submitted to support it.

Unless protected from inspection by law, the record of the Village's position and all other records of the Village become part of the public record and must be open to inspection by members of the general public.

When the closed session business is finished, members of the Village Board are free to adjourn. It is not necessary for the chairperson or other member to announce findings or decisions before or immediately after adjournment.

RULE 10. - TIME REQUIRED TO CONVENE FROM CLOSED TO OPEN SESSION:

The Village Board may not return to open session until at least 12 hours have passed after ending a closed session unless such a return to open session was mentioned in the initial notice. Section 19.85(2), Stats.

RULE 11. - COMMITTEE MEETINGS:

Committee meetings shall be initiated as part of action taken at a regular Board meeting. The purpose of these meetings shall be to study and advise on an issue and report back to the Village Board recommendations or possible plan of action. Committee meetings shall fall under the open meeting law because they are formally created by the parent body. The following committees shall be appointed by the President at the first regular meeting in May.

- A. Emergency Government (Composition - 2 Board members and at least one community representative.)
- B. Grounds and Maintenance (Composition - Same as above)
- C. Public Works - including streets, lighting, water (Composition - Same as above)
- D. Public Welfare - including health, relief, parks (Composition - Same as above)
- E. Sanitary Utility (Composition - Same as above)
- F. Finance (Composition - all Board members)
- G. Zoning and Planning (Composition - Village President, 1 Village Trustee, 5 Citizens from the Village)
- H. Board of Appeals (Composition - 5 Village residents and shall be appointed by the Village President for the following terms.
 - One member for 1 year
 - Two members for 2 years
 - Two members for 3 yearsThe President may appoint for staggered terms of three years two alternate members.

Each committee shall consist of at least three members. The President shall ex-officio be chairman of the committee on Finance unless otherwise ordered by suspension of the rules. The presiding officer shall submit appointed names of committee members for Board approval. Committees A - F shall be appointed for a term of one year. Each member shall serve as appointed for a term of one year. Each member shall serve as appointed unless excused by a majority of the Board. Each committee with delegate functions shall at the next regular Board meeting submit a written report on all matters

referred to it, unless a longer time be granted by a vote of the Board, such report shall be entered in the proceedings. Such report shall recommend a definite action by the Board on each item, shall be signed by the majority of the committee and shall be filed with the Clerk prior to each board meeting. Minority reports may be submitted. Any committee may require any Village officer to confer with it and supply information needed in connection with any matter pending before the committee. The committee chairman should report committee actions and move for adoption of recommendations, regardless of his or her position in the committee vote. The committee chairman may speak against the action during the debate on the subject. Note: The officers of the Zoning and Planning Committee shall be selected by this committee. Village Board members may not hold an office on this committee.

SECTION III - GIVING AND RECEIVING NOTICE

RULE 1. - NOTICE REQUIREMENTS:

The chief presiding officer of the Village Board, or his/her designate, must give notice of all meetings to both the public and the news media. The news media is provided notice of meetings in several different ways:

- A. Notice is required to be given specifically to any news medium that has requested such notice.
- B. Notice must be given to the official newspaper of the government's jurisdiction. If none exists, the news medium likely to give notice in the area.

Written or telephone communication to members of the news media or to the official newspaper is sufficient.

These requirements deal with notice given by the Village to the media. There is nothing in the law that requires the media, in turn, to print, publish, or announce the meetings of which they have been given notice. 66 Op. of the Attorney General 230 (1977). Nor must the Village pay to have notices published under the open meeting law. 65 Op. of the Attorney General 250 (1976).

In addition, the law requires the Village to supplement notice to the media with some form of direct notice to the public, usually by posting notices of the meeting in one or more public places, where they are likely to be seen by the public or those who might be particularly concerned.

Although the statutes do not mandate posting, several opinions of the attorney general have expressly supported this method. 66 Op. of the Attorney General 93 (1977). If posting is to be used, the chairperson of the Village should determine where and how many posted notices, (preferably 3) will be likely to give notice to the public.

RULE 2. - POSTING PLACES:

Notice must be posted at the Village Hall, the Hewitt Pioneer Branch Bank, and Draxler's Service.

RULE 3 - TIMING OF NOTICES:

The Open Meeting Law requires that notice of public meetings be given at least 24 hours in advance. The 24 hour deadline may be shortened to two (2) hours when it is impossible or impractical to give full notice.

The Village is not permitted to publish a general notice to cover more than one upcoming meeting. Thus, the Village cannot publish a notice at the start of the year, stating that the "Village will be meeting on the second Tuesday of every month" and have that notice suffice. Separate notice of each meeting must be given to the appropriate news media and the public.

RULE 4. - NOTICE CONTENTS:

Section 19.84 (2), Stats., requires that "every public notice of a meeting of the Village Board shall set forth the time, date, place and subject matter of the meeting". Another way of expressing this rule is that a subject not covered by a subject matter listed on a notice cannot legally be considered at the meeting.

However, the Village may include in its agenda a category entitled "miscellaneous business". This item can be used to supplement the listing of all specific subject items that are known in advance. It cannot be used to cover specifics that are known when the notice is drafted.

If citizen input is expected to be part of a meeting, this fact should be noticed by placing a separate item on the meeting agenda. Such an item could be called "public hearing" or "comments from the public".

SECTION IV - INSPECTION OF VILLAGE RECORDS

RULE 1.

The public shall have access to any material which is written, drawn, printed, spoken, visual, electro-magnetic information, which is recorded or preserved, regardless of physical form or characteristics which has been created or kept by the Village. This includes all hand written, typed or printed pages, maps, charts, photographs, computer printouts which are produced or maintain by the Village. This includes records which are not required to be maintained either by statute or local ordinance if the materials are in the possession of a member of the Board and bear some relationship to that official position. Records do not include:

- A. Drafts, notes, preliminary computations and like material prepared by a member in the name of a person for whom the member is working.
- B. Materials which are purely the personal property of the Board member and have no relation to that office.
- C. Materials which access is limited by copyright, patent or bequest.
- D. Published materials in the possession of authority, other than a public library, which are available for inspection at the public library.

RULE 2:

Each Village officer shall be the legal custodian of all property and things which are received from a predecessor or other persons and which are required by law to be filed, deposited or kept in his/her office, or which are in the lawful possession or control of the officer may be lawfully entitled.

RULE 3:

Each Village officer must return all records in his possession upon leaving office.

RULE 4:

All original documents must be maintained in the office at the Village hall. When documents are too large to be copied, a sign out procedure shall take effect.

RULE 5:

Members of the Board shall be legal custodians of the records for the term of their office or committees for which they are elected or appointed.

RULE 6:

Any person has the right to inspect any Village record unless a specific provision of the law would make a record unavailable. Specific limitations to the public access to records include:

- A. The Village Board may meet in closed session to confer with legal counsel rendering advice concerning strategy to be adopted by the Village with respect to litigation in which it is or is likely to become involved. If a record is produced relating to strategy to be employed concerning litigation which has already been concluded, there shall no longer be a need to restrict public access and a request for inspection cannot be denied.
- B. Any record relating to investigative information obtained for law enforcement purposes, if Federal law or regulations require exemption from disclosure, or if exemption from disclosure is a condition to receipt of aids by the State.
- C. Records specifically exempted from disclosure by State or Federal law, or authorized to be exempted from disclosure by State law.

RULE 7:

If a record contains information that may be made public and also contains information that may not be made public, the member having custody of the record is required to provide that information that may be made public, and delete the information that may not be made public, from the record, before it is released, Section 19.36 (6), Stats.

RULE 8:

An individual who desires to inspect or receive a copy of the Village record must make a request to an appropriate Board member. The request must reasonably describe the requested information which is sought. A request must be reasonably limited, both as to subject matter and the length of time represented by the record. A request for a record not meeting the above requirements, does not constitute a sufficient request and may be denied.

RULE 9:

A request for records may be made orally, but if the request is refused a subsequent request for the record must be in writing in order to initiate an enforcement action, Section 19.35 (1h). Stats. A request for records may be made by mail since the requestor need not appear in person.

RULE 10:

In addition to the right to inspect a public record, a requestor also has the right to make or receive a copy of a public record. A requestor also has the right to receive comprehensible copies of audio tape recordings or a transcript of the records.

RULE 11:

Any Village Board member must provide record access within 48 hours of the request. If the request is denied, the Board member must give reasons for the denial. Denial procedures are as follows:

- A. If a request for information is made orally, the member may deny the request orally. If a requestor asks for a written statement of the reasons for the denial, the statement must be issued within five business days of the oral denial.
- B. If the Board member denies a written request in whole or in part, the requestor must receive a written statement of the reasons for denial.

Every written denial of a request, must inform the requestor that the determination is subject to review upon petition of a writ of mandamus or upon application to the Attorney General of District Attorney.

RULE 12:

The Village Board shall assess a fee of \$2.00 for copies of records providing the cost of reproduction does not exceed the \$2.00 fee.

SECTION V

This ordinance shall take effect and be in force, from and after its passage and publication as requested by law.



Village President

Date



Village Clerk

8-13-93

Date