

City of Westby

# Code of Ordinances

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**Ordained and Published  
By Authority of the  
Common Council  
2010**

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 Common Council of the City of Westby has adopted this Code of Ordinances. This Code represents the contribution of the Common Council to the democratic and efficient administration of the government and affairs of the City of Westby.**

### **CITY OFFICERS**

**Mayor: Danny Helgerson**

**Alderspersons: Mark Hendrickson, Sue Jacobson,  
Mark Jelinek, Ann Kurth, Dan Nelson, and Phil Strand**

**City Clerk-Treasurer: Roxy Wedwick**

**Deputy City Clerk / Utility Clerk: Amy Swiggum**

**Director of Public Works: Ron Janzen**

**Chief of Police: Scott Stuber**

**Fire Chief: Spencer Lee**

## **Foreword**

We are pleased to provide this new Code of Ordinances for the City of Westby, Wisconsin. This codification provides a complete revision and codification of all Ordinances of a general and permanent nature of the City. 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.

Non-textual 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 City officials in the preparation of this Code.

**Community Code Service  
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DeForest, WI 53532**

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DeForest, WI 53532  
(608) 846-5897

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## **Adopting Ordinance**

An Ordinance Adopting and Enacting a New Code of Ordinances for the City of Westby, 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 Common Council of the City of Westby, Wisconsin, Do Ordain as Follows:

### **Section 1.**

The Code of Ordinances is hereby adopted and enacted as the "Code of Ordinances of the City of Westby, 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 City passed on or before January 18, 2011, 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 January 18, 2011, and all Ordinances of a general and permanent nature of the City of Westby, enacted on final passage on or before January 18, 2011, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from the Code after January 19, 2011, except as hereinafter provided. No resolution of the City, 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 City, or any contract or obligations assumed by the City;
  - (3) The administrative Ordinances or resolutions of the City 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 Common Council 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 City;
  - (7) Any ordinance or resolution establishing the prescribing of street grades of any streets in the City;
  - (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 City;
  - (10) Any ordinance annexing property to the City;
  - (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 City 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 City Clerk-Treasurer, preserved in loose-leaf form, or in such other form as the City Clerk-Treasurer may consider most expedient. It shall be the express duty of the City Clerk-Treasurer or someone authorized by the City Clerk-Treasurer, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the Common Council 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 Common Council. 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 on January 18, 2011.

Passed, approved adopted by the Common Council on this 18<sup>th</sup> day of January, 2011, pursuant to Section 66.0103, Wis. Stats.

Attest:

\_\_\_\_\_/S/  
Mayor, Daniel Jefson

\_\_\_\_\_/S/  
City Clerk-Treasurer, Mary Holte

# Open Meeting Law Guide

## **General Requirements**

1. Wisconsin's Open Meeting Law provides that all meetings of governmental bodies, including subcommittees, 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 applies when members of a governmental body meet with a purpose to engage in government business and the number of members present is sufficient to determine the parent body's course of action regarding the proposal being discussed. State ex rel. Newspapers v. Showers, 135 Wis.2d 77, 398 N.W.2d 154 (1987).
6. A meeting is covered by the Open Meeting Law even where the governmental body is not empowered to exercise the final powers of its parent body (ex. advisory committee to governing body). State v. Swanson, 92 Wis.2d 310, 284 N.W.2d 655 (1979).
7. A private home may qualify as a "meeting place" under Sec. 19.82(3), Wis. Stats. 67 Atty. Gen. 125.
8. A telephone conference call involving members of a governmental body is a "meeting" under the Open Meeting Law and it shall be reasonably accessible to the public and proper notice of such meeting must be given. 69 Atty. Gen. 143.
9. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Sec. 19.89, Wis. Stats.

## **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. News media who have filed written requests for notices of public meetings cannot be charged fees by governmental bodies for sending such media notices. 77 Atty. Gen. 312. However, a newspaper (or other media outlet) is not obligated to print a notice received under such a standing meeting notice request, nor is the governmental body obligated to pay for the publication of such a notice. (*Martin v. Wray*, 473 F. Supp. 1131 (1979)). 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 governmental body holding the meeting;
  - b. The time, date and place of the meeting; and
  - c. The subject matter of the meeting, including subject matter to be considered in closed session.
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 governmental body.

# **Code of General Ordinances**

Key to Section Numbering:

TITLE - CHAPTER - SECTION

1 – 1 – 1