



VILLAGE OF MOUNT HOREB

E. Main Street

Mount Horeb, WI 53572

Phone: (608) 437-6884 Fax: (608) 437-3190

Email: mhinfo@mounthorebwi.info Web: mounthorebwi.info

COMMUNITY DEVELOPMENT AUTHORITY AGENDA

Wednesday, May 13, 2026 at 6:00 PM

Municipal Building Board Room

138 E. Main Street

Mount Horeb, WI

- 1) Call to order
- 2) Public Comments on Non-Agenda Items*
- 3) Consent Agenda
 - a. Consideration of April 8, 2026 Meeting Minutes
 - b. Economic Development Director's report
 - c. Mount Horeb Area School District report
 - d. Mount Horeb Area Chamber of Commerce Report
- 4) Agenda Items
 - a. Staff Presentation on Governance & Professional Standards Training
 - b. Electing of the Chair and Vice-Chair
 - c. Update on direction for the Lukken Property
- 5) Meeting adjournment.

*Public Comment Policy

Members of the public are invited to speak at meetings of all Mount Horeb Public Bodies. To comment, please complete a Public Comment Form at the Meeting Room entrance and submit it to staff before the meeting begins. Comments are limited to **three minutes**, must be made from the podium, and the speaker must return to the audience after speaking.

- **Non-agenda item comments** are heard at the start of the meeting. Public Body members and staff will not engage in discussion during public comment but may consider topics for future agendas.
- **Agenda item comments** are heard during the relevant item, after the proposers or staff present the item and before Public Body discussion. All public comments on the item will be heard before any discussion by the Public Body.

Members of the public will only be allowed to speak outside these public comment times if they are invited by the meeting chair to share additional information requested by the Public Body. If so invited to speak, the member of the public must do so from the podium.

Written comments are also welcome. Written comments shall include the name and address of the submitter and should be submitted to the Deputy Treasurer/Governance Coordinator by email at niki.erickson@mounthorebwi.info (subject line: *Public Comment Request-Name of Public Body*) or delivered by to the Village at: 138 E Main Street, Mount Horeb WI, 53572, ATTN *Public Comment Request-Name of Public Body*.

UPON REASONABLE NOTICE, EFFORTS WILL BE MADE TO ACCOMMODATE THE NEEDS OF DISABLED

INDIVIDUALS THROUGH APPROPRIATE AIDS AND SERVICES. FOR INFORMATION OR TO REQUEST THIS SERVICE, CONTACT ALYSSA GAFFNEY, CLERK, AT 138 E MAIN STREET, MOUNT HOREB, WI (608) 437-9404.



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COMMUNITY DEVELOPMENT AUTHORITY AGENDA

Wednesday, April 8, 2026 at 6:00 PM

DRAFT MEETING MINUTES

- 1) Call to order
Marc Schellpfeffer called the meeting to order at 6:00 PM. Members present were Todd Fritz, Ben Vondra, Ryan Czyzewski, Marc Schellpfeffer, Andy Baber, Barb Case & Heidi Kopras. Also present were Economic Development Consultant, Kristin Fish-Peterson, Interim Village Administrator, Jon Hochkammer & Office Assistant, Katie Jelle
- 2) Public Comments on Non-Agenda Items*
- 3) Consent Agenda
Czyzewski asked if there were any updates on the potential easement area for business park access points. Fish-Peterson said that there are no updates. There were no other questions or comments regarding the information provided. Motion was made by Czyzewski to approve the Minutes & Consent Agenda. The motion was seconded by Baber. All were in favor.
 - a. Consideration of February 11, 2026 Meeting Minutes
 - b. Economic Development Director's report
 - c. Mount Horeb Area School District report
 - d. Mount Horeb Area Chamber of Commerce Report
- 4) Agenda Items
 - a. Recommendation of Residential Improvement Grant Applications
Fish-Peterson presented the applications that were received and went over the scoring rubrics. There were 8 applications submitted for the grant but only 7 were eligible. After much discussion, Czyzewski made a motion to award \$3,498 to 313 S 4th Street & divide the remainder of the funds to be paid equally to 107 S 5th Street, 304 S 4th Street, 304 Center Ave, 504 S 2nd Street, 206 N 2nd & 307 Park Street. The amount comes out to \$3,583.67 each. The motion was seconded by Baber. All were in favor.

- b. Consideration of Lukken Development Proposals. The Community Development Authority may convene in closed session as authorized by Wisconsin Statute 19.85(1)(e) for the purpose of deliberating or negotiating the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

Schellpfeffer led by explaining that this will be the 2nd step of this process for creating & finalizing the development plan. Tonight's meeting is about making a recommendation of the CDA see's fit for the complexity of the plan.

Fish-Peterson presented the proposals that were received for the development of the Lukken Farm property. Proposals were received from Encor Homes, Gorman & Company, Green Pastures Living & Making a Difference.

The review committee met & narrowed the proposals to Making a Difference & Encore Homes, Inc.

After interviewing both companies, the review team recommended the Making a Difference proposal. The MAD proposal utilizes more of the property for development for housing, adds more property tax base & more opportunities to welcome residents to the community.

The development will likely be included in a new Tax Increment District which could help pay for the new park.

The Making a Difference proposal also has a better mix of uses that creates a unified neighborhood, a property mix more geared toward the Villages' goals. They also had very creative ways to incorporate gardens by partnering with seed companies.

There is also a unique component involving a video game competition that allows people from around the world to look at the site & provide solutions.

The Design Review Team is made up of Ben Vondra, Ben Jones, Marc Schellpfeffer & Jon Hochkamer. Schellpfeffer explained that the Making a Difference proposal offered a unique way of looking at a complex site.

Ben Jones, Village Board Member, also spoke in favor of Making a Difference.

Hochkamer stated that he was intrigued by the competition planning. It allows for community input. He was initially concerned that the video game component could delay the process but was told it would not and if it did cause a delay, it would be worth it.

Vondra stated that all 4 proposals were very different. He pointed out that the site is a very difficult site and will continue to be a challenge in development. Vondra added that the Village bought the land for the purpose of having some control over the development. He stated that the Making a Difference proposal was committed to having a community engagement component. He also added that it is important to meet the needs of the community with affordable housing. He believes that this

proposal will meet the need for affordable housing.

Schellpfeffer made a motion to recommend to the Village Board, Making a Difference for further development of the Lukken Property. After further discussion, the motion was seconded by Kopras.

Czyzewski reiterated that there are many more steps to this process, any red flags will be addressed and this isn't the final product. Fish-Peterson added that this proposal will go to the Village Board on May 6th, and then it can be negotiated. All members were in favor.

5) Meeting adjournment.

Czyzewski motioned to adjourn at 6:52 PM. Case seconded. All were in favor.

May 5, 2026

To: Community Development Authority

From: Kristen Fish-Peterson, Economic Development Contracted Staff

Re: Report on work to date

What follows is a list of activities for April:

1. Meetings in person and virtual
 - a. Nic Owen and Jon Hochkammer individually (in person, virtually, phone, and emails)
 - b. Meetings regarding Lukken Property
 - c. Attendance at CDA meeting
 - d. Attendance at Village Board meeting
 - e. Meetings with Allison Plumer, Chamber President/CEO, Chamber Board meeting (virtual)
 - f. In person, telephone and online meetings for Lukken RFP with interested parties, proposal review team
 - g. Meetings with land owners and potential developers/brokers regarding housing land availability
 - h. Correspondence with all applicants for Home Improvement Grant Program
2. Follow up from meetings
3. Work to certify TID 6 with WI DOR
4. Review of map and follow up for work toward business park potential development
5. Participation in executive search for new administrator (staff review of applicant resumes/videos)



AGENDA ITEM REPORT

MEETING DATE

May 13, 2026

PREPARED BY

AGENDA ITEM # 3.c

Mount Horeb Area School District report

BACKGROUND

[MHASD Monthly Report](#)

<https://www.mounthorebschools.org/district/board-of-education/board-communication>

RECOMMENDATION

ATTACHMENTS

None

Chamber Report

MAY 2026

The Chamber has moved fully into its event season following two late-April programs. The 2026 Village-Wide Spring Garage Sales generated strong participation with 77 registered sales, and the Chamber distributed approximately 2,000 printed sale maps throughout the community and region. Shoppers traveled from well beyond the immediate area, reinforcing the event's continued role in bringing additional visitor traffic into Mount Horeb during an otherwise typical spring weekend.

The Chamber also hosted its Spring Job Fair on April 25 with 12 local businesses represented. Employer participation was strong; however, as anticipated, applicant attendance remained modest, reflecting the continued difficulty many communities are experiencing in drawing traffic to in-person hiring events.

Planning also continues for Welcome Center facility improvements and the fundraising efforts that will be required to support those projects. Siding repair and replacement is the next major maintenance priority as the Chamber works to preserve and improve this important visitor-facing community asset.

As part of ongoing downtown outreach efforts, Kristen Fish Peterson and Allison Plumer will visit downtown businesses on May 6 to share 2025 visitor data along with updated parking information. The goal of these visits is to continue strengthening communication between the Chamber and downtown stakeholders.

In addition, the Chamber recently obtained a small grant from the Mount Horeb Rotary to assist in launching promotional efforts tied to Mount Horeb's new Bird City Wisconsin designation. Chamber staff will work alongside Kerry Beheler and local partners to begin building awareness around this recognition and encouraging broader community participation in related initiatives.

Ethics Code

1. Statement of Purpose.

- (a) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established in this Code of Ethics for all Village of Mount Horeb officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Village, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the Village.
- (b) The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Village of Mount Horeb and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Village. The Village Board believes that a Code of Ethics for the guidance of elected and appointed officials and employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the citizens of this Village in their elected and appointed officials and employees. The Village Board hereby reaffirms that each elected and appointed Village official and employee holds his or her position as a public trust, and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this Ethics Code and such rules and regulations as may be established are hereby declared to be in the best interests of the Village of Mount Horeb.

2. Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Public Official.** Those persons serving in statutory elected or appointed offices provided for in Chapter 62 of the Wisconsin Statutes, and all members appointed to boards, committees and commissions established or appointed by the Village President and/or Village Board pursuant to this Code of Ordinances, whether paid or unpaid.
- (b) **Public Employee.** Any person excluded from the definition of a public official who is employed by the Village.
- (c) **Anything of Value.** Any gift, favor, loan, service or promise of future employment, but does not include reasonable fees and honorariums, or the exchange of seasonal, anniversary or customary gifts among relatives and friends.
- (d) **Business.** Means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.
- (e) **Personal Interest.** The following specific blood or marriage relationships:
 - (1) A person's spouse, mother, father, child, brother or sister; or
 - (2) A person's relative by blood or marriage who receives, directly or indirectly, more than one-half (½) support from such person or from whom such person receives, directly or indirectly, more than one-half (½) of his support.
- (f) **Significant Interest.** Owning or controlling, directly or indirectly, at least ten percent (10%) or Five Thousand Dollars (\$5,000.00) of the outstanding stock of at least ten percent (10%) or Five Thousand Dollars (\$5,000.00) of any business.

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- (g) **Financial Interest.** Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.
 - (h) **Staff.** Any full- or part-time employee of the Village.

3. Statutory Standards of Conduct.

There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any Code of Ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Code of Ethics and shall apply to public officials and employees whenever applicable, to wit:

- (a) **Sec. 19.59.** State Ethics Law.
- (b) **Sec. 946.10.** Bribery of Public Officers and Employees.
- (c) **Sec. 946.11.** Special Privileges from Public Utilities.
- (d) **Sec. 946.12.** Misconduct in Public Office.
- (e) **Sec. 946.13.** Private Interest in Public Contract Prohibited.

4. Responsibility of Public Office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and carry out impartially the laws of the nation, state and municipality, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern. Their conduct in both their official and private affairs should be above reproach so as to foster respect for government.

5. Dedicated Service.

- (a) Officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
- (b) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- (c) Members of the Village staff are expected to follow their appropriate professional code of ethics. Staff members shall file a copy of such professional ethics codes with the Village Clerk. The Village Clerk may notify the appropriate professional ethics board of any ethics violations involving Village employees covered by such professional standards.

6. Fair and Equal Treatment.

- (a) **Use of Public Property.** No official or employee shall use or permit the unauthorized use of Village-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as Village policy for the use of such official or employee in the conduct of official business, as authorized by the Village Board or authorized board, commission or committee.
- (b) **Use of Village Stationery.** No official or employee shall use, or permit the unauthorized use of, Village stationery for personal use.

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- (c) **Obligations to Citizens.** No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. No official or employee shall use or attempt to use his or her position with the Village to secure any advantage, preference or gain, over and above his rightful remuneration and benefits, for himself or for a member of his or her immediate family.
 - (d) **Political Contributions.** No official shall personally solicit from any Village employee, other than an elected official, a contribution to a political campaign committee for which the person subject to this Chapter is a candidate or treasurer.

7. Conflict of Interest.

(a) Financial and Personal Interest Prohibited.

- (1) No official or employee of the Village, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this Chapter or which would tend to impair independence of judgment or action in the performance of official duties.
- (2) Any member of the Village Board who has a financial interest or personal interest in any proposed legislation before the Village Board shall disclose on the records of the Village Board the nature and extent of such interest; such official shall not participate in debate or vote for adoption or defeat of such legislation.
- (3) Any non-elected official who has a financial interest or personal interest in any proposed legislative action of the Village Board or any board, commission or committee upon which the official has any influence or input or of which the official is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Village Board or the appropriate board, commission or committee the nature and extent of such interest. Such official shall not participate in debate or discussion or vote for adoption or defeat of such legislation.
- (4) Any Village employee who has a financial interest or personal interest in any proposed legislative action of the Village Board or any board, commission or committee upon which the employee has any influence of input, or of which the employee is a member, that is a make to recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Village Board or the appropriate board, commission or committee the nature and extent of such interest.

- (b) **Disclosure of Confidential Information.** No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Village, nor shall such information be used to advance the financial or other private interests of the official or employee or others.

(c) Gifts and Favors.

- (1) No official or employee, personally or through a member of his immediate family, may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could be expected to influence the employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.
- (2) No official or employee personally, or through a member of his immediate family, shall accept any gift, whether in the form of money, service, loan, thing or promise, from any person which could reasonably be expected to impair his independence of judgment or action in the performance of his duties or grant in the discharge of his duties any improper favor, service or thing of value. However, it is not a conflict of interest for any public official or employee to receive hospitality that is unsolicited and unrelated to government business, such as a meal, and that is not intended to influence the official.

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- (3) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a Village official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality, as a properly reported political contribution, from citizens for the purpose of supporting the candidate's campaign. (The State Ethics Board has interpreted "hospitality" as it applies to state officials as including meals, beverages and lodging which a person offers at his residence and would have been offered if the recipient was not an official).
 - (4) Gifts received by an official or employee or his immediate family under unusual circumstances shall be referred to the Village Board within ten (10) days of receipt for recommended disposition. Any person subject to this Chapter who becomes aware that he is or has been offered any gift, the acceptance of which would constitute a violation of this Subsection, shall, within ten (10) days, disclose the details surrounding said offer to the Village Board. Failure to comply with this reporting requirement shall constitute an offense under this Chapter.
- (d) **Representing Private Interests Before Village Agencies or Courts.**
- (1) Non-elected Village officials and employees shall not appear on behalf of any private person (other than him or herself, his or her spouse or minor children) before any Village agency, board, commission or the Village Board if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation.
 - (2) Elected Village officials may appear before Village agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. However, the disclosure requirements of Subsection (a) above shall be applicable to such appearances.
- (e) **Ad Hoc Committee Exceptions.** No violation of the conflict-of-interest restrictions of this Section shall exist, however, where an individual serves on a special ad hoc committee charged with the narrow responsibility of addressing a specific issue or topic in which that individual, or the employer or a client of that individual, has an interest so long as the individual discloses to the Village Board that such interest exists.
- (f) **Contracts with the Village.** No Village official or employee who, in their capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion on his part shall enter into any contract with the Village unless, within the confines of Sec. 946.13, Wis. Stats.:
- (1) The contract is awarded through a process of public notice and competitive bidding or the Village Board waives the requirement of this Section after determining that it is in the best interest of the Village to do so.
 - (2) The provisions of this Subsection shall not apply to the designation of a public depository of public funds.

8. Advisory Opinions.

When an official or employee has doubt as to the applicability of a provision of this Ethics Code to a particular situation or definition of terms used in this Chapter, he should apply to the Village Administrator for an advisory opinion from the Village Attorney and will be guided by that opinion when given. The official or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicability provisions of this Chapter before such advisory decision is made. This Chapter shall be operative in all instances covered by its provisions except when superseded by an applicable statutory provision and statutory action is mandatory, or when the application of a statutory provision is discretionary, but determined by the Village Attorney to be more

appropriate or desirable. Advisory requests and opinions shall be kept confidential, except when disclosure is authorized by the requestor, in which case the request and opinion may be made public.

9. Hiring Relatives.

- (a) This Section governs the proposed hiring of individuals for full-time or part-time work as Village employees who are members of the immediate family of Village employees or elected officials. "Immediate family" includes those relatives by blood or marriage defined in Section 2(e) as personal interests.
- (b) Hiring an immediate family member of any current Village employee or elected Village official will be considered only if that individual has the knowledge and skills, experience or other job-related qualifications that warrant consideration for the position. A person cannot be hired for either full-time or part-time employment in a position immediately supervised by a member of that person's immediate family.
- (c) This Section does not apply to non-elected officials who are asked to accept appointment as members of a Village Board, commission or committee; non-elected officials, however, will be expected to disqualify themselves from participation in matters under consideration which may affect the hiring, retention, classification or compensation of their immediate family if currently employed or being considered for employment by the Village.

10. Employees Covered by Collective Bargaining Agreements.

In the event an employee, covered under a collective bargaining agreement, is allegedly involved in an Ethics Code violation, the terms and conditions set forth in the applicable collective bargaining agreement shall prevail in the administration and interpretation of this Ethics Code Chapter.

11. Employee Protection.

No appointing authority, agent of an appointing authority or supervisor may initiate or administer, or threaten to initiate or administer, any retaliatory action against a Village employee following an employee's disclosure of information related to the violation of any federal or state law, rule or regulation, the mismanagement or abuse of authority, a substantial waste of public funds, or a danger to public health and safety. Nothing in this Section restricts the right of the Village as an employer to take appropriate disciplinary action against an employee who knowingly makes an untrue statement or discloses information, the disclosure of which is specifically prohibited by federal or state law, rule or regulation.

Wisconsin's Ethics Laws Recognizing and Avoiding Conflicts of Interest

2023 Local Government 101

Presented by
Claire Silverman, Legal Counsel
Maria Davis, Assistant Legal Counsel

League of Wisconsin Municipalities, Ph. 608-267-2380

I. INTRODUCTION

- A. **Coverage.** This outline provides an overview of state laws that guide the actions of municipal officials when those officials (or a member of their family or an organization with which they are associated) have a financial or other special interest in a governmental matter. In particular, this outline provides an overview of the state ethics code applicable to local officials, the statute governing private interests in public contracts, statutory provisions defining official misconduct, and the compatibility doctrine.
- B. **Identifying Potential Conflict Situations.** The state statutes contain minimum standards of ethical conduct by local government officials. The statutes relating to ethics and conflicts of interest are interrelated and can be quite complicated.

Problems in this area can be avoided primarily by using common sense and applying the “smell test.” Stated broadly, when an official, a member of the official's family or a business organization with whom the official is associated is involved in a municipal matter, the official needs to step back and question whether there are problems concerning his or her involvement in the matter. The official may want to discuss the situation with the municipal attorney. Local officials may also contact the League's attorneys to discuss ethics issues.

Sometimes it is not clear whether a conflict, as defined by state law, exists. In these gray areas, the official needs to balance the benefits of involvement (e.g., representing the electors, using the official's expertise) against the drawbacks (e.g., how it would look, the risk of violating a law). Sometimes, even if it may be legal to act on a matter, you may not feel comfortable doing so or it may not look good to do so.

II. STATE CODE OF ETHICS FOR LOCAL GOVERNMENT OFFICIALS (Sec. 19.59, Stats.)

- A. **Background.** The state code of ethics for local officials was created in the 1991 legislative session and took effect in 1992. The law applies to “local governmental units,” including

counties, cities, villages and towns, as well as special purpose districts, such as town sanitary districts. Sec. 19.42(7u), Stats. The law also covers joint bodies and subunits of local governmental units. The law was overseen by the State of Wisconsin Government Accountability Board (GAB). Effective June 30, 2016, 2015 Wis. Act 118 replaces the Government Accountability Board with separate commissions governing Ethics and Elections.

B. **Municipal Officials Affected.** The state ethics code applies to “local public officials” who hold “local public office.” Sec. 19.42(7w) and (7x), Stats.

1. “Local public office” includes elected municipal officers; city and village managers, appointed municipal officers and employees who serve for a specified term; and officers and employees appointed by the governing body or executive or administrative head who serve at the pleasure of the appointing authority.
2. The term does not include independent contractors and persons who perform only ministerial (i.e., non-discretionary) tasks, such as clerical workers. In addition, the term omits officials and employees who are appointed for indefinite terms and are only removable for cause, such as police chiefs and fire chiefs.

C. **Prohibited Conduct.** The state ethics law for local officials, sec. 19.59, Stats., prohibits the following conduct:

1. **Use of Office for Private Gain.** Public officials are prohibited from using their offices to obtain financial gain or anything of substantial value for the private benefit of themselves, their immediate families, or organizations with which they are associated. Sec. 19.59(1)(a), Stats.
2. **Offering or Receiving Anything of Value.** No person may give and no public official may receive “anything of value” if it could reasonably be expected to influence the local public official’s vote, official action or judgment, or could reasonably be considered as a reward for any official action or inaction. Sec. 19.59(1)(b), Stats.

Note: This outline does not cover sec 19.59(1)(br). That section was created as part of a larger law aimed at campaign finance reform but the courts held the law was unconstitutional, and that particular section was held to be unseverable from the larger law. See *Wisconsin Right to Life, Inc. v. Schober*, 366 F.3d 485 (7th Cir. 2004) and *Wisconsin Realtors Ass’n v. Ponto*, 233 F. Supp. 2d 1078 (W.D. Wis. 2002).

3. **Taking Action Affecting a Matter in Which Official Has Financial Interest.** Local officials may not take official action substantially affecting a matter in which the official, an immediate family member, or an organization with which the official is associated has a substantial financial interest. Nor may an official use his or her office in a way that produces or assists in the production of a substantial benefit for the official, immediate family member or organization with which the official is associated. Sec. 19.59(1)(c), Stats.

- a. Exceptions. The prohibitions under no. 3 above do not prohibit local officials from taking lawful actions concerning payments for employee salaries, benefits, or expense reimbursements. The above prohibitions also do not prohibit local officials from taking action “to modify” an ordinance. Sec. 19.59(1)(d), Stats.

The State of Wisconsin Ethics Commission’s guidelines suggest that local officials can take action in situations where they are part of a similarly situated class of interests and their interest is not significantly greater or less than other members of that class or where the law will have general application (e.g., like an ordinance). For purposes of this exception, the Ethics Commission distinguishes between making and applying policy. See attached Ethics Guideline 1240, Mitigating Conflicting Interests.

D. Definitions:

1. “Immediate Family” means an official's spouse or relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the official or contributes, directly or indirectly, that amount for the official's support. Sec. 19.42(7), Stats.
2. “Organization” is broadly defined to cover “any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.”
3. “Associated” with an Organization. An official is “associated” with an organization for purposes of the state ethics law when the individual or a member of the individual's immediate family is an officer, director or trustee, or owns at least 10% of the organization. An individual is not associated with an organization merely because the individual is a member or employee of an organization or business. Sec. 19.42(2), Stats.
4. “Anything of value” means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization. Sec. 19.42(1).

- E. **Conflict Response: Withdrawal.** Ethics Commission guidelines provide that when a matter in which a local official should not participate comes before a board, commission or other body which the official is a member of, the official should not participate in any portion of the body’s meeting involving discussion, deliberations, or votes related to the matter. When, because of a potential conflict of interest, an official withdraws from the body’s discussion, deliberation, and vote, the body’s minutes should reflect the absence. See Ethics 1232.

- F. **Local Ordinances.** Municipalities can adopt ethics ordinances that:

- require disclosure of economic interests

- establish ethics boards
- prescribe standards of conduct
- establish forfeitures not exceeding \$1,000

- G. **Ethics Advisory Opinions.** Local officials may request advisory ethics opinions from the municipal ethics board or, if there is none, from the municipal attorney.
- **Effect of Opinion.** The local ethics board or attorney may issue a written advisory opinion. If the official follows the advice in the opinion, it is evidence of intent to comply with the law.
- H. **Penalties & Enforcement.** Any person who violates the state ethics law may be required to forfeit up to \$1,000. The law is enforced by the district attorney.
- I. **Interpretation.** The state code of ethics for local officials has not been interpreted in published court decisions. However, the State Ethics Commission has guidelines which are available online at <https://ethics.wi.gov/Pages/Resources/ResourcesOverview.aspx>.

The guidelines include the following:

1. *Citizen's Guide to Standards of Conduct for Local Officials* (ETH- 1202).
2. *Receipt of Items and Services (for Municipal Judges)* (ETH-1215).
3. *Local Officials' Receipt of Food, Drink, Favors and Services* (ETH-1219). Local officials may accept and retain: (a) food, drink, lodging, items and services that are unrelated to their public service and could not reasonably be expected to influence official's vote, official actions or judgment, nor reasonably be considered a reward for any official action or inaction; b) payment or reimbursement for costs relating to their work as public officials; and c) mere tokens and items or services of only nominal, insignificant or trivial value. Ethics 1219 further provides that a local official should not accept or retain: (a) any item or service, including food, drink, and travel of more than nominal value that is offered because of their public position; (b) any item or service that could reasonably be expected to influence their vote, official actions or judgment; (c) any item or service that could be reasonably be considered a reward for official action or inaction; and (d) discounted transportation, traveling accommodations or communication services for which the supplier would normally charge.
4. *Nepotism* (ETH-1233) (this applies to state officials but may be of interest to local officials).
5. *Disposition and Reporting of Gifts* (ETH-1235).
6. *Mitigating Conflicting Interests: Private Interest vs. Public Responsibility* (ETH-1240). Ethics guideline 1240 states that an official may participate in actions of their municipality even though the action may affect the official, a member of the official's family, or an organization with which the official is associated, as long as: (a) the action affects a class of similarly-situated interests; (b) the interest of the official, an immediate family member, or an organization with which the official is associated is not significant when compared to other members of the class; and (c) the action's effect on the interests of the official, an

immediate family member or an organization with which the official is associated is not significantly greater or less when compared to other members of the class.

7. *Letters of Reference* (ETH-1244).
8. *Seminars & Conferences* (ETH 1222). This guideline is aimed at state public officials but is good advice. Generally, officials attending seminars and conferences may accept the meals and refreshments provided or approved by the event's organizer and approved by the local governmental unit. An official should generally not accept food, drink or entertainment offered outside of the conference or activities at hospitality suites, receptions or similar activities.

III. PRIVATE INTERESTS IN PUBLIC CONTRACTS (Section 946.13, Stats.)

A. **General Prohibition.** To protect against self dealing by public officials, sec. 946.13, Stats., generally prohibits municipal officials from having a private financial interest in a public contract. Thus, local governing body members are generally prohibited from entering into a contract for goods, services, construction or employment with the municipality.

1. **Prohibition Against Official Action.** A public official may not participate in the making of a contract in his or her official capacity if the official has a direct or indirect financial interest in the contract. Sec. 946.13(1)(b).

Since this is a prohibition on official action, abstaining from voting on the contract will prevent violation.

2. **Prohibition Against Private Action.** A public official may not in his or her private capacity negotiate or bid for or enter into a contract in which the public official has a direct or indirect financial interest if the official is "authorized or required by law to participate in his capacity as such officer or employee in the making of that contract." Sec. 946.13(1)(a).

This latter provision is a prohibition on private action and a public official cannot avoid violating it merely by abstaining from voting because all that is necessary for a violation to occur is that the official be authorized to vote on or exercise discretion with regard to a contract in which the official has a private financial interest and the official has negotiated, bid for, or entered into the contract.

3. **Exceptions:**
 - a. \$15,000. Contracts in which receipts and disbursements do not, in the aggregate, exceed \$15,000 in any one year. This means that a municipal governing body member can enter into a total of \$15,000 in business with the municipality in any calendar year.
 - b. Bankers. Bankers who receive less than \$10,000 per year for serving on the city council or village board are exempted, unless the banker's compensation is directly dependent on procuring public business.

- c. Attorneys. Partners in a law firm that serves as legal counsel to the municipality who receive less than \$10,000 per year for serving on the city council or village board are exempted, unless the individual has an interest in the law firm greater than 2% of its net profit or loss; the individual participates in the making of a contract between the municipality and the law firm; or the individual's compensation from the law firm is directly dependent on procuring public business.
 - d. 2% of stock. There is an exception from sub. (1)(b), the prohibition on official action, for persons who own no more than 2% of the stock of the corporation involved.
4. **Penalty:** Violation of the statute is a Class I felony and subjects the person to a fine of not more than \$10,000, imprisonment for not more than 3 years and 6 months, or both.

IV. INCOMPATIBILITY DOCTRINE.

- A. **Common law Prohibition.** The same person cannot hold two offices or an office and a position where, from a public policy perspective, it is improper for one person to discharge the duties of both posts. The Wisconsin Court of Appeals has held that serving in an office and a position, where one post is superior to the other, is improper from a public policy perspective. For example, in *Otradovec v. City of Green Bay*, 118 Wis. 2d 393 (Ct. App. 1984), the court held that a common council member could not work as an assistant appraiser in the city assessor's office.
- 1. **Result.** If a second office is taken that is incompatible with an existing office, the first office is vacated. In the case of office/position incompatibility, the outcome is unclear – person runs risk of losing first post, but court might allow choice.
 - 2. **General Rule of Thumb:** Municipal governing body members may not hold other municipal offices or positions, unless specifically authorized by statute. This is because the governing body exercises control over such matters as the salaries, duties, and removal or discipline of most other municipal officers and employees.
 - 3. **Statutory Exceptions.**
 - a. Elected city, village and town officers can also serve as volunteer firefighters, EMTs or first responders when annual compensation from one or more of those positions, including fringe benefits, does not exceed \$25,000 if the municipality has a population of 5,000 or less or \$15,000 if the municipality has a population greater than 5,000. Sec. 66.0501(4). Wis. Stat. § 66.0501(4).
 - b. Governing body members can serve on local boards and commissions if they receive no compensation other than a per diem and other board/commission members also receive the per diem. Wis. Stat. § 66.0501(2).
 - c. Village trustees may be paid an hourly wage for serving as an employee if wages do not exceed \$15,000 each year. Amounts may be paid in addition to compensation

for serving as trustee or as volunteer firefighter, emergency medical services practitioner, or emergency medical responder. Wis. Stat. § 61.327.

- d. Municipal governing body members may serve as county board supervisor. Wis. Stat. § 59.10(4).

Related Statutory Provisions.

1. Section 66.0501(2) generally prohibits governing body members from taking municipal jobs. Under the statute:
 - a. Governing body members are prohibited, during the term for which the member is elected, from taking new municipal jobs created during their term of office even if they resign.
 - b. A governing body member may be appointed to an office or position which was not created during the member's term in office as long as the member resigns first.
 - c. Governing body members may run at any time for new or existing elective office, but the compatibility doctrine applies if elected and the official would be required to choose between the two offices. Individuals may run for two elected local offices at the same time. Sec. 8.03(2m).
 - d. Governing body members may be appointed to serve on local boards and commissions (e.g., library board and plan commission) where no additional remuneration is paid to such officers except that such officers may be paid a per diem if other members of the board or commission are paid a per diem.
2. Section 59.10(4), Stats., provides that municipal governing body members may serve as county board supervisors.

V. OTHER STATUTORY PROHIBITIONS

- A. **Misconduct in Office.** Section 946.12 is a criminal statute that prohibits public officers and employees from intentionally performing, or refusing to perform, certain acts. A violation of sec. 946.12 is punishable by up to two years in prison, a fine of up to \$10,000, or both.
 1. Section 946.12(1) prohibits a public official from intentionally failing or refusing to perform a “known mandatory, nondiscretionary, ministerial duty of his office or employment within the time or in the manner required by law.”
 2. Section 946.12(2) prohibits a public official from doing an act which he or she knows is forbidden by law to do in an official capacity.
 3. Section 946.12(3) provides that a public official may not, by an act of commission or omission, exercise a discretionary power in a manner inconsistent with the duties of office

or the rights of others, with an intent to obtain a dishonest advantage for himself or another.

- B. **Bribery.** Section 946.10(2) prohibits public officials from taking bribes. Section 12.11 prohibits public officials from promising an official appointment or anything of value to secure votes.
- C. **Sale to Employees Prohibited.** No municipal department or member of a municipal governing body may sell or procure for sale any municipal article, material or product to city or village employee; except meals, public services and special equipment necessary to protect the employee's safety and health. Sec. 175.10. This statute is designed to prohibit governmental acquisition of products for resale to government employees.

VI. A FINAL WORD

Ordinances and Common Law Rules Relating to Ethics. This outline focuses on state statutes that establish minimum standards of ethical conduct for public officials. These laws provide a good starting point for local officials seeking to assure themselves that they are acting appropriately. However, municipal officials should be mindful of other relevant laws governing ethical issues. These include ordinances, local rules of procedure and the common law (i.e., published court decisions).

For example, the Wisconsin Supreme Court has held that members of a legislative body or municipal board are disqualified to vote on propositions in which they have a direct pecuniary interest adverse to the municipality. *Board of Supervisors of Oconto County v. Hall*, 47 Wis. 208 (1879). Additionally, many municipalities have adopted *Robert's Rules of Order*. (Newly Revised, 10th ed) as their local rules of procedure. Section 45 of *Robert's* provides at p. 394: "No member should vote on a question in which he has a direct personal or pecuniary interest not common to other members of the organization." (Note: There are several editions of *Robert's Rules of Order* and so it is important to know which edition your municipality is using.)