

PUBLIC NOTICE REQUIREMENTS

PRESENTER: ATTORNEY JANN CHARETTE

WISCONSIN TOWNS ASSOCIATION

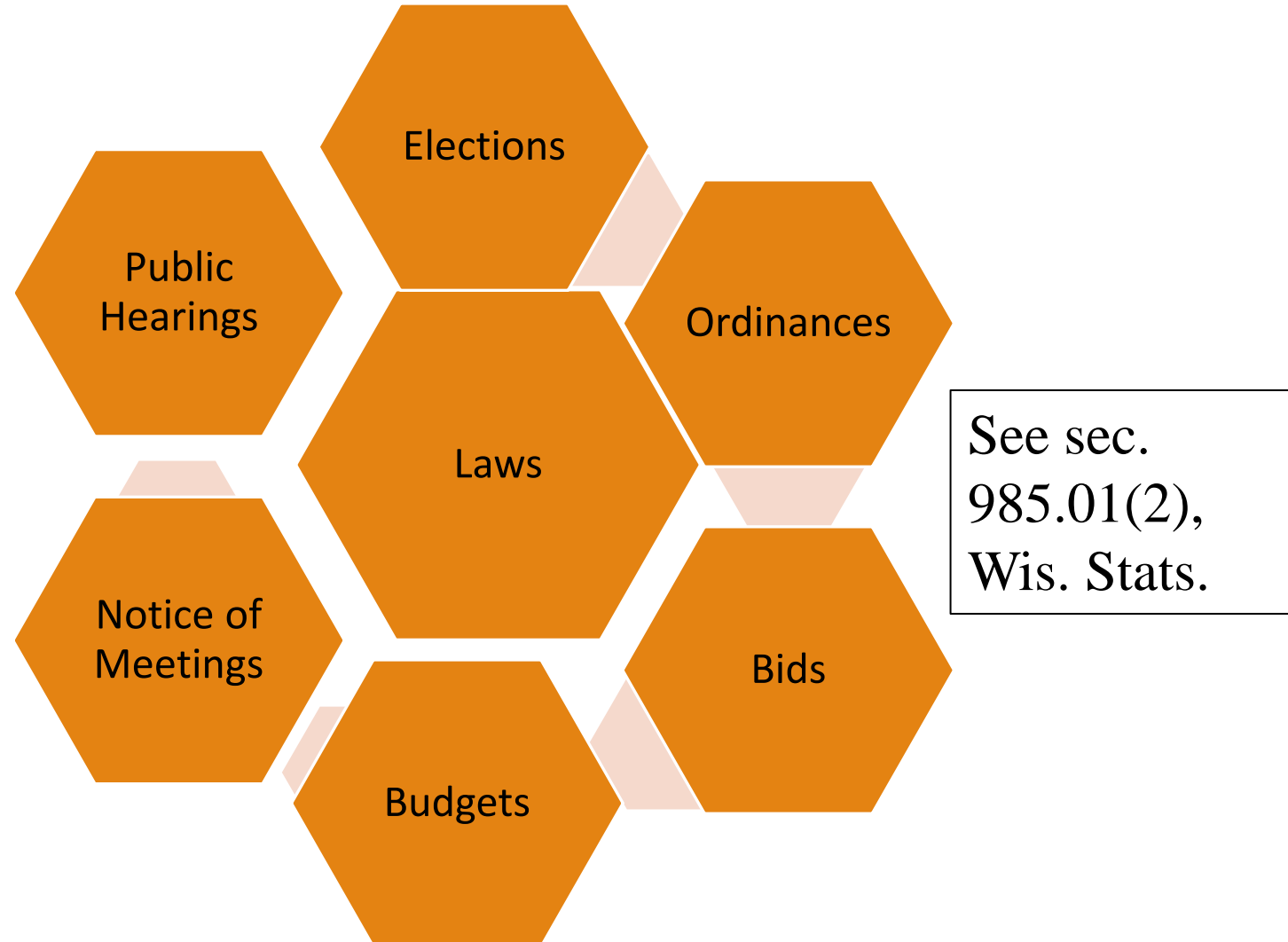
OCTOBER 9, 2017

“Legal notice” means every notice required to be published in a newspaper or other publication:

1. If required by statute
2. If required by order of a court
3. If set by local ordinance

See sec. 985.01(2), Wis. Stats.

“Legal notice” includes, but is not limited to, publication of:



Legal notice must be published:



1. In newspaper:
 - likely to give notice in the area, or
 - to the person affected

2. If no local newspaper available:
 - then publishing shall be made in a newspaper likely to give notice

Qualification of Newspaper:

1. Published regularly and continuously in municipality
2. At least once a week
3. For a period not less than two years before the date of publication
4. Contains reports of happenings of recent occurrences of varied character designed to inform the reader
5. Has a bona fide paid circulation (constitutes more than 50% of the circulation)
6. In town or village, has actual subscribers at each publication = 300 copies or more

See sec. 985.03(1), Wis. Stats.

For example, publication in newspaper required:

1. Board of Review notice:

- Posted in 3 public places, town hall door, and newspaper (See sec. 70.47(2), Wis. Stats.)

2. Ordinance including forfeiture provision:

- Published in newspaper within 30 days of adoption (See sec. 60.80(2), Wis. Stats.)

3. Alcohol retail license applications:

- Published in daily newspaper 3 successive occasions or if weekly newspaper, printed at least once, at least one week prior to event (See sec. 125.04(3)(g), Wis. Stats.)

4. Proceedings related to:

- Tax redemptions or sales of land for delinquent taxes, charges or assessments
- Annexations, detachments, consolidations or incorporations under chs. 59-66.
- Legal notices directed to specific individuals.

See sec. 985.05(1), Wis. Stats.

In lieu of newspaper publication, legal notice may be posted:

1. When done so by town or village
2. When law permits

See sec. 985.02(2), Wis. Stats.



Postings:

1. Must be likely to give notice to persons affected
2. Option to post in:
 - Three public places; or
 - In at least one public place and on a website maintained by the municipality

See sec. 985.02(2)(a), Wis. Stats.

Attorney General concluded:

1. Sec. 19.84, Wis. Stats., the Open Meeting Law, does not prohibit posting in one location only;
2. Posting in one public place and on municipal website may be sufficient to meeting public notice requirements;
3. *“Posting at three different locations is more likely to be considered reasonable than simply posting in one location.”*

Attorney General recommends:

4. Posting of open meeting notice be placed at three locations and that notice may be placed on website as a supplement to the other notices.

(See March 14, 2016 letter from Assistant Attorney General Paul M. Ferguson to Daniel Mallin- Exhibit A).

WTA recommends:

1. If statute refers to publication under chapter 985, Wis. Stats., then posting on municipality's website and one other public place will meet legal requirement.
2. If statute does not refer to publication under chapter 985, Wis. Stats., best to post notices in three public places.
3. Consider publishing notices for bidding and public hearings in the newspaper for greater public awareness.

Timing of Public Notice:

Hour or Day Requirement: notice must be published or posted at least _____ hours or _____ days prior to the event.

Note: When the time requirement is expressed in hours, do not include Sundays or holidays in your calculation. See sec. 990.001(4)(a), Wis. Stats.

Example: Notice of public meeting

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27 X
28	29 E	30	31			

E = Event
X = Publication
 or Posting

Sec. 19.84(3), Wis. Stats. Shorter notice may be given only if, for good cause, 24 hour notice is impossible or impractical. Can never be less than 2 hour notice.

Example: Summary & Notice of Budget Public Hearing- sec. 65.90(3), Wis. Stats.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16 X	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31 PH			

PH = Event
X = Publication
or Posting

Exclude the first day, count the last day in your calculation. If last day falls on a Sunday or holiday, go to next day. See sec. 985.09(1), & 990.001(4), Wis. Stats.

Example: Notice of Alcohol Retail Application

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22 X	23 X	24 X	25	26	27
28	29	30	31 E			

E = Event
 X = Publication
 or Posting

If daily weekly newspaper, notice required to be published three consecutive days. If weekly newspaper, notice required to be published once at least one week prior to the event. See sec. 125.04(3)(g), Wis. Stats.

Example: Notice for Special Town Meeting

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11 X	12 X	13 X
14 X	15 X	16 X	17	18	19	20
21	22	23	24 X	25	26	27
28	29	30	31 E			

E = Event
 X = Publication
 or Posting

Sec. 60.12(3), Wis. Stats., requires class 2 notice published not more than 20 days nor less than 15 days prior to meeting.

CLASS 1 or CLASS 2 or CLASS 3
REQUIREMENTS

Insertion= posting or publication once each week for consecutive weeks, the last of which be at least one week before the event or act.
Sec. 985.01(1m), Wis. Stats.

Class 1 notice = one insertion

Class 2 notice = two insertions

Class 3 notice = three insertions

Example: Class 1, Class 2 or Class 3 notice

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10 X	11	12	13
14	15	16	17 X	18	19	20
21	22	23	24 X	25	26	27
28	29	30	31 E			

E = Event
X = Publication
 or Posting

Contact Information: Attorney Jann Charette

Phone: (715) 526-3157

E-mail: wtowns@wisctowns.com

Excellent resources for public officials:

- Wisconsin Town Officer's Handbook, 3rd Edition 2017 @ <http://wisctowns.com/>
- Wisconsin Open Meetings Law Compliance Guide @ <https://www.doj.state.wi.us/sites/default/files/dls/2015-OML-Guide.pdf>
- Wisconsin Town Law Forms, Wisconsin Department of Administration, (800) 362-7253 or at <http://docs.legis.wisconsin.gov/statutes/townlaw/toc>