



# STARTING A NONPROFIT

And Engaging with your Elected  
Representatives



## Why Start a Nonprofit?

A nonprofit entity can assist you in organizing and formalizing your mission and garner financial support to achieve your goals

It takes your idea/passion into action

Non-profits are tax exempt



# DISCLAIMER

This presentation is not intended to provide legal advice. You should consult your own legal counsel in establishing a non-profit

## 501 (c) (3) Organizations

Dedicated to charitable and educational activities

Contributions to c3's *are* tax deductible

May engage in a limited amount of lobbying activity

Cannot engage in ANY political activity

## 501 (c) (4) Organizations

Promotes the common good and general welfare of the community

May engage in an unlimited amount of lobbying

Can engage in a limited amount of political activity as long as it is not its “primary purpose”

Contributions to C4's are NOT tax deductible

## C3 or C4?

What are your goals?

Educational or influencing public policy?

Do you want to participate in elections?

Create mission/action plan to guide decision making

# 501 (c) (3)s

- 501(c)(3) organizations fall into one of three primary categories:
  - Public Charities: Designed to directly benefit the public
    - Activities are restricted to charitable purpose
    - Have active program of fundraising and receive contributions from many sources
    - Cannot be closely held
  - Private foundations: Designed for the purpose of financially supporting other public charities
    - Receives donations from a limited number of sources
    - Can be closely held
    - Excise tax
  - Private operating foundations: Hybrid of above (rare). Must directly benefit the public
    - Can be closely held
    - Can have funding from a limited number of sources

You have a robust donor base

You need ALL the tools in the advocacy box

You want change in elected leadership

Your policy issue has become politicized

Establishing a (c)(4) may be a good idea if:





# CREATING A 501(C)(4)

# Step 1: Create your Organization



Must be a corporation, trust, or unincorporated association



Look to state law to determine what is required for organization



Articles of Incorporation



Bylaws



Selecting Directors and elect officers

## Step 2: Obtain an Employer Identification Number (EIN)



OPENING BANK  
ACCOUNT



FILINGS WITH THE  
IRS



COMPLETE THE  
FORM SS-4



FILED  
ELECTRONICALLY



PAY \$50 FILING FEE

## Step 3: File Notice of Intent to Operate

1. Must complete the Form 8976 within 60 days of formation
2. Name and address of organization
3. EIN
4. Date of establishment
5. State of organization
6. Statement of Purpose
7. Month the organization's fiscal year ends (typically December)

# Optional Filing: Form 1024-A

Longer form

Provides public recognition of tax-exempt status

Nonprofit mailing privileges

Exemption from certain state taxes

\$600 fee



## File annual Form 990

Hire a good accountant  
with non-profit experience  
to complete filings

## 510(c)(4) Lobbying vs. Political Campaign Intervention

Unlimited amount of lobbying

Political campaign intervention permissible – not primary purpose

# Political Activity - limited

Endorsing candidates or expressly opposing candidates

Voter outreach directed only at one particular party

Independent expenditures

Establishing or managing a connected political action committee

Giving corporate contributions in states where corporate contributions are permissible



# Lobbying - unlimited



GRASSROOTS MOBILIZATION  
TO AFFECT PUBLIC POLICY



PUBLISHING  
COMMUNICATIONS TO HOLD  
ELECTED OFFICIALS  
ACCOUNTABLE IN THEIR  
OFFICIAL CAPACITY\*



PRESENTING INFORMATION AT  
A HEARING



ENGAGING WITH ELECTED  
REPRESENTATIVES ON PUBLIC  
POLICY ISSUES IMPORTANT TO  
YOUR ORGANIZATION\*

# Best Practices



ENLIST ASSISTANCE OF  
EXPERIENCED  
ACCOUNTANT



CONSIDER HIRING LEGAL  
COUNSEL TO REVIEW  
PAPERWORK/ACTIVITY AND  
COMMUNICATIONS



SET UP GOOD  
COMPLIANCE SYSTEMS  
FROM THE START



TRAIN STAFF FOR  
COMPLIANCE



# Public Records

A simple way to engage  
your government



“TRANSPARENCY AND OVERSIGHT  
ARE ESSENTIAL TO HONEST,  
ETHICAL GOVERNANCE.”

*John K. MacIver Inst. for Pub. Policy, Inc. v. Erpenbach*, 2014 WI App 49, ¶ 32, 354 Wis. 2d 61, 848 N.W.2d 862

- Wisconsin's public records law "shall be construed in every instance with a **presumption of complete public access, consistent with the conduct of government business**. The denial of public access is generally contrary to the public interest, and only in an exceptional case may access be denied
  - Wis. Stat. § 19.31

## Presumption of Access



Can be on official or personal devices or accounts



Not a record:

Purely personal property  
Material with limited access rights, such as copyrights or patents  
Drafts, notes, and preliminary documents



Certain exceptions apply to the definition

Privileged communications, private information protected by other law

## What are public records

“Any material on which written, drawn, printed, spoken, visual or electromagnetics information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority.”

Wis. Stat. § 19.32(2)

- “Authority” means any of the following having custody of a record: a **state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation...**” with some exceptions
  - Wis. Stat. § 19.32(1)

## Who is subject to the law?

- County boards
- Town boards
- School boards
- State agencies
- Legislature
- Governor's office



Understand decision making of public official/board/administration



Gain insight in public policy issues that might not be widely distributed



Hold elected officials accountable



Gain additional information that might not otherwise be available

# Why Request Public Records?



No “magic words” or exact format that must be used to make a request

A request need not be in writing; it may be verbal

The request should:

- Reasonably describe the information or records requested
- Be reasonably specific as to time and subject matter
- Custodian should not have to guess what records the requester wants

Based on guidance from the Office of Open Government housed in the WI DOJ a good request is:

- Framed carefully to produce records actually of interest
- If a particular document is requested, the request identifies it by date, author, and title
- Requests for emails use search terms
- Request is directed at the proper records custodian
- Indicates when cost is a concern

## Drafting a Request

# Comparing Requests

October 30, 2021

Dear Mr. Chairperson,

Please send me copies of all town records related to redevelopment of the old quarry site.

If I do not receive the records by November 6, 2021, I will assume you are denying my open records request and will take all appropriate legal action.

I expect you will not charge me for these records because of the high public interest in this important matter. Thank you for your prompt attention.

Yours truly, Ralph Requester 123 Quarry Road Cheese Town, WI 53000

October 30, 2021

Dear Ms. Clerk:

Pursuant to the Wisconsin Public Records Law, please send me copies of all 2016 Cheese Town Board minutes discussing the Vacation Company's proposed redevelopment of the old Bedrock Quarry site.

I only need pages of the minutes on discussing the proposed quarry redevelopment, and I don't need copies of any related documents distributed at the Town Board meetings.

Also, please send me copies of all emails between the Town Board members regarding the quarry redevelopment from May 1 through September 15, 2016. I would prefer to receive the responsive records by email, if possible.

If the cost of fulfilling my request will be more than \$25.00, please contact me before proceeding. Also, please contact me if you have any questions about this request.

Thank you, Rebecca Requester rebecca@internet.com 555-1234



Once request is submitted a response is required “as soon as practicable and without delay”



No specific time limits, depends on breadth of request and other circumstances



DOJ policy: 10 business days generally reasonable for response to simple, narrow requests



There are penalties for arbitrary and capricious delays

## Timing of Response

Actual, necessary, and direct costs only

- Copying and reproduction
- Location costs
- Mailing/shipping

May not charge for redaction costs

Prepayment may be required if costs exceed \$5.00

Authority may waive all or part of costs

Costs



## Enforcement

Can bring a mandamus action to challenge withholding a record or part of a record or a delay in granting access

Authority may be ordered to release records

Attorney's fees and costs may be awarded if mandamus action was a cause of the release

Consult	Download	Call	Write
<p>Consult legal counsel</p>	<p>Download DOJ Compliance Guides and other resources at: <a href="https://www.doj.state.wi.us/office-open-government/office-open-government">https://www.doj.state.wi.us/office-open-government/office-open-government</a></p>	<p>Call DOJ's Office of Open Government (OOG): (608) 267-2220</p>	<p>Office of Open Government Department of Justice P.O. Box 7857 Madison, WI 53707</p>

# Further Guidance



# THANK YOU!

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