



# Wisconsin Elections Commission

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DATE: September 12, 2024

TO: Wisconsin Municipal Clerks  
Wisconsin County Clerks  
City of Milwaukee Election Commission  
Milwaukee County Elections Commission

FROM: Wisconsin Elections Commission

SUBJECT: Wisconsin Statute § 5.25(3) and Emergency Polling Place Planning Guidance

2023 Wisconsin Act 124 was enacted on March 21, 2024, for the purposes of renumbering and amending Wis. Stat. § 5.25(3). Primarily, this provision of statute was meant to detail the extent to which emergency designations and closures of polling places could occur.

Many clerks were already aware that the Wisconsin Elections Commission (“Commission”) has long recommended that municipalities have an emergency action plan in place and approved by the local governing body, which would at least include pre-approved emergency backup polling place location(s). The Commission was working to promulgate an administrative rule, Wis. Admin. Code Chapter EL 15, that would have formalized these processes. However, the new Wis. Stat. § 5.25(3) would have superseded portions of proposed Chapter EL 15, and the Commission ordered that the rule no longer be pursued at its June 27, 2024, meeting, while also directing that this guidance be issued on the interpretation of Wis. Stat. § 5.25(3).

The key provisions found in Wis. Stat. § 5.25(3) are as follows:

1. All polling place locations shall be established for each election at least 30 days before the election. The location may not be discontinued more than 30 days before an election without the approval of the municipal governing body after a public hearing at which the public has an opportunity to present testimony on the proposed discontinuation.
2. Under no circumstances may more than one-half of a municipality’s polling places be closed within 30 days before an election, including on Election Day, except when the municipality has only one polling place and establishes a new polling place approved by the majority of the members-elect of the governing body and the municipal clerk.
3. With the exception of Section #2 above, no established polling place may be closed to voters on Election Day (with the change coming less than 30 days before election day) unless the majority of the members-elect of the governing body makes a finding of emergency. Then, that majority and the municipal clerk must approve the closure. A finding of emergency would most likely be done by passing a resolution at a public meeting on the topic, but clerks should consult local counsel to determine if that is how your municipality prefers to compete the process. Finally, the clerk must post all proper notices relating to the

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changes while also stationing, at or as near as possible to the closed location, a proper person to direct voters to the new polling place location. Statute does not further define a “proper person.” Selecting this person would be up to the discretion of the clerk and/or governing body, but the Commission believes the most logical interpretation is that a greeter, properly trained election inspector, clerk’s office staff member, a law enforcement officer, or other emergency services personnel would be a “proper person” to utilize for this purpose.

4. The provisions above do not apply to the election inspectors’ ability to adjourn to another location in accordance with Wis. Stat. § 7.37(1).

The Commission recommends all municipal clerks speak to their governing bodies with haste about incorporating a Polling Place Emergency Plan (“Plan”) into a public meeting agenda more than 30 days prior to the 2024 November General Election, or if time prohibits, at the next available opportunity. Municipalities that have had to close a polling place due to natural disaster or other unanticipated event have wished that they had a Plan in place beforehand. Creating a Plan in advance ensures the public, election inspectors, and local officials will all be aware of alternate polling locations and emergency planning provisions.

This Plan should consider and comply with the requirements of Wis. Stat. § 5.25(3). The most common way that a local governing body approves such a Plan is by a resolution that passes a proposed policy at a public meeting. A Plan could also be written into ordinance, but that would be less adaptable over time, although it may be a better fit for certain municipalities. The Commission recommends discussing appropriate approval methods and policy considerations with local counsel.

The Commission strenuously recommends that municipalities approve substitute polling places and an emergency plan to employ if a polling place becomes inconvenient or impossible to use, whether inside or outside of the 30-day preelection statutory deadline. The Plan may include, but is not limited to:

1. Details that ensure the primary and backup sites comply with the accessibility requirements of Wis. Stat. § 5.25(4) and notice requirements of Wis. Stat. § 10.01(2)(d).
2. The names and addresses of substitute polling locations and a set of protocols explaining how to transfer to a substitute polling location, including how ballots and voting equipment will be secured and transferred.
3. Sections defining what constitutes an emergency and the associated contingency plans for those events.
4. A section containing a chain of command flowchart detailing how election officials will communicate with each other during an emergency. This section shall contain a current list of the roles and contact information of each election inspector.
5. A section containing contact information for local media, law enforcement, and voting equipment vendors.
6. A plan to ensure the emergency plan is publicized and, if used, how the clerk will notify impacted voters.

A sample outline of a Plan has been attached for your convenience as Attachment A. The sample Plan is not intended to be comprehensive, municipality specific, or compliant/safe as may be required by your municipality, but it does provide a fairly comprehensive example of the types of provisions you may wish to build into a customized Plan. It is important that you review this sample policy with local officials, your governing body, and legal counsel before adopting this or a similar policy.

Please contact the WEC Help Desk at 608-261-2028 or [elections@wi.gov](mailto:elections@wi.gov) if you have any additional questions.