

City of  
**WHITEWATER**

**COMMON COUNCIL AGENDA**

Common Council Meeting

City of Whitewater Municipal Building – Community Room  
312 W. Whitewater St., Whitewater WI 53190

**Tuesday, October 5, 2021 - 6:30 p.m.**

**This will be an IN PERSON MEETING as well as a VIRTUAL MEETING**  
**Citizens are welcome (and encouraged) to join us in person, or via computer, smart phone,**  
**or telephone. Citizen participation is welcome during topic discussion periods.**

**AMENDED COUNCIL AGENDA AS OF 11:00 A.M. 10/4/21**

**Items added:**

Consideration of approval of design of the Dollar General building to be constructed on Lot 2, CSM 4054 (tax parcel /A 405400002) (roundabout Lot 2) and other development agreement terms.

**AND**

**EXECUTIVE SESSION discussion regarding:** Negotiation of sale of land at the intersection of Howard Rd. & Innovation Drive to David & Goliath (Tax Parcel /A 4442 00002).

Please note that although every effort will be made to provide for virtual participation, unforeseen technical difficulties may prevent this, in which case the meeting may still proceed as long as there is a quorum. Should you wish to make a comment in this situation, you are welcome to call this number:

**262-473-0108**

**When: Oct 5, 2021 06:30 PM Central Time (US and Canada)**

**Topic: Common Council Meeting**

**Please click the link below to join the webinar:**

**<https://us06web.zoom.us/j/84187101042?pwd=T00way9xVmwraVRKcDFvS1Roc3ZUdz09>**

**Passcode: 279124**

**Or One tap mobile :**  
**US: +13017158592,,84187101042#,,,,\*279124# or**  
**+13126266799,,84187101042#,,,,\*279124#**

**Or Telephone:**  
**Dial(for higher quality, dial a number based on your current location):**  
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**346 248 7799 or +1 669 900 6833 or 877 853 5257 (Toll Free) or 888 475 4499 (Toll Free)**  
**or 833 548 0276 (Toll Free) or 833 548 0282 (Toll Free)**  
**Webinar ID: 841 8710 1042**  
**Passcode: 279124**

**International numbers available: <https://us06web.zoom.us/j/84187101042>**

**All agenda items are subject to discussion and/or action.**

**CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA:**

CA-A	Approval of payment of invoices processed through 9/29/202.	
CA-B	Acknowledgement of Receipt and Filing of the Following: *Parks and Recreation Board minutes for 8/18/21; *CDA minutes of 8/26/21.	
CA-C	Expedited Approval of the Following Items, per City Staff Recommendation: O-4	

**STAFF REPORTS: Police Department Reaccreditation.**

**CITY MANAGER UPDATE.**

**HEARING OF CITIZEN COMMENTS.** No formal Common Council Action will be taken during this meeting although issues raised may become a part of a future agenda. Participants are allotted a three minute speaking period. Specific items listed on the agenda may not be discussed at this time; however citizens are invited to speak to those specific issues at the time the Council discusses that particular item.

*To make a comment during this period, or during any agenda item: **On a computer or handheld device**, locate the controls on your computer to raise your hand. You may need to move your mouse to see these controls. **On a traditional telephone**, dial \*6 to unmute your phone and dial \*9 to raise your hand.*

**RESOLUTIONS: (See below).**

**ORDINANCES – First Reading**

O-1	Amending Chapter 1.08 of the Municipal Code, Creating Municipal Wards (Redistricting due to results of Federal Census) and request for consideration of waiver of requirement for second reading of ordinance. (City Clerk Request)	
O-2	Ordinance amending Storage of Vehicles (Neighborhood Services Director Request).	
O-3	Amending Section 1.21.010, Schedule of Deposits, establishing a fine for violation of Chapter 1.33 Residence Restrictions for Sex Offenders.	

**ORDINANCES – Second Reading – None**

O-4	Creating Chapter 1.33, Residence Restrictions for Sex Offenders. (Police Chief Request).	
*O-5	Amending Chapter 2.56.010, Library Board Membership. (City Manager Request).	

**CONSIDERATIONS:**

C-1	Presentation of 2022-2023 Whitewater Municipal Budget. (Finance Director Request).	
C-2	Approval of Task Order No. 21-07 with Strand Associates for TID boundary descriptions. (DPW Director Request).	
C-3	Request for approval of Memorandum of Understanding MOU between City and CDA relating to water tower. (City Manager Request)	
C-4	Discussion and possible direction regarding ATV and UTV use and bicycle regulations. (Councilmember Majkrzak request).	
C-5	Discussion and possible direction regarding City of Whitewater bicycle registration ordinance. (Councilmember Majkrzak request).	
C-6	Report on pending interest payment to CDA, as a result of a cash advance made by CDA pursuant to a 2015 agreement between the CDA and the City of Whitewater. (Finance Director Request).	
C-7	Councilmember Requests for Future Agenda Items and/or Future POLCO questions.	n/a
C-8	<b>EXECUTIVE SESSION.</b> Adjournment to Closed Session, <b>to reconvene</b> , per Wisconsin Statutes 19.85 (1) (e): “Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. Items to be Discussed: 1) Negotiation of sale of the north 2.5 acres of property in Industrial Park, identified as Tax ID /A305000001 to James Richter; and 2) Negotiation of sale of vacant land near roundabout to Midwest WI LLC (Dollar General); and 3) <b>Negotiation of sale of land at the intersection of Howard Rd. &amp; Innovation Drive to David &amp; Goliath (Tax Parcel /A 4442 00002).</b>	n/a
C-9	<b>Reconvene into Open Session</b>	n/a
C-10	Resolution authorizing sale of real estate of the north 2.5 acres of vacant land located in Industrial Park, and identified as Tax ID /A305000001 to James Richter. (CDA Director Request).	
C-11	<b>Consideration of approval of design of the Dollar General building to be constructed on Lot 2, CSM 4054 (tax parcel /A 405400002) (roundabout Lot 2) and other development agreement terms.</b>	n/a
C-12	Adjournment.	n/a

**Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk at least 72 hours prior to the meeting.**

**\*Items denoted with asterisks will be approved on the Consent Agenda unless any council member requests that it be removed for individual discussion.**

## Report Criteria:

- Detail report.
- Invoices with totals above \$0.00 included.
- Paid and unpaid invoices included.

Vendor	Vendor Name	Description	Invoice Date	Net Invoice Amount	GL Account Number
<b>DVORAK LANDSCAPE SUPPLY LLC</b>					
8597	DVORAK LANDSCAPE SUPPLY	GRASS SEED/STRAW BLANKETS/GARDEN STAPLES	09/15/2021	190.90	100-53270-359
Total DVORAK LANDSCAPE SUPPLY LLC:				190.90	
<b>KREATIVE SOLUTIONS LLC</b>					
8825	KREATIVE SOLUTIONS LLC	WAFC WEBSITE DESIGN/MARKETING CONSULT	09/01/2021	1,587.50	247-55800-324
Total KREATIVE SOLUTIONS LLC:				1,587.50	
<b>MARTELLE WATER TREATMENT INC</b>					
8957	MARTELLE WATER TREATMEN	SODIUM HYPOCHLORITE/HYDROFLUOSILIC ACID	09/17/2021	1,310.16	610-61630-341
Total MARTELLE WATER TREATMENT INC:				1,310.16	
<b>MIDWEST METER INC</b>					
9225	MIDWEST METER INC	BIT TORX TAMPER RESISTNAT T10	09/17/2021	44.36	610-61653-350
Total MIDWEST METER INC:				44.36	
<b>QUADIENT LEASING USA INC</b>					
4196	QUADIENT LEASING USA INC	3Q21 FOLDER/STUFFER MACHINE LEASE	09/24/2021	60.12	100-51500-310
4196	QUADIENT LEASING USA INC	3Q21 FOLDER/STUFFER MACHINE LEASE	09/24/2021	120.25	610-61921-310
4196	QUADIENT LEASING USA INC	3Q21 FOLDER/STUFFER MACHINE LEASE	09/24/2021	120.25	620-62810-310
4196	QUADIENT LEASING USA INC	3Q21 FOLDER/STUFFER MACHINE LEASE	09/24/2021	60.13	630-63300-310
Total QUADIENT LEASING USA INC:				360.75	
<b>TRANSCENDENT TECHNOLOGIES LLC</b>					
8134	TRANSCENDENT TECHNOLOGI	2022 TAX RECEIPTING/PET LICENSE SOFTWARE MAINT	09/17/2021	935.00	100-51500-224
Total TRANSCENDENT TECHNOLOGIES LLC:				935.00	
<b>WALMART</b>					
6	WALMART	KLEENEX/PAPER TOWELS	09/19/2021	45.65	100-52100-310
6	WALMART	CRAFT SUPPLIES/YA BAGS/CANDY	09/19/2021	71.04	220-55110-342
6	WALMART	CARD/CAKE/BANNER	09/19/2021	17.24	100-52400-310
6	WALMART	CRAFT SUPPLIES	09/19/2021	36.20	220-55110-341
6	WALMART	LEGAL PADS/BINDERCLIPS/PAPER TOWELS	09/19/2021	48.80	610-61921-310
6	WALMART	TEACHER POSTCARDS	09/19/2021	29.28	220-55110-342
6	WALMART	COOKIES/WATER/GATORADE/ICE	09/19/2021	32.00	100-52100-310
Total WALMART:				280.21	
<b>WINCHESTER TRUE VALUE HARDWARE INC</b>					
24	WINCHESTER TRUE VALUE HA	TEST PLUG/QUIK CAP	09/19/2021	9.78	620-62860-357
24	WINCHESTER TRUE VALUE HA	100' NMB CABLE/20A CIRCUIT BREAKER	09/19/2021	130.98	246-55110-346
24	WINCHESTER TRUE VALUE HA	SQ BOX/OUTLET/CONDUIT/CONNECTOR	09/19/2021	26.83	100-51600-355
24	WINCHESTER TRUE VALUE HA	MISC NUTS,BOLTS,SCREWS	09/19/2021	1.97	100-51600-355
24	WINCHESTER TRUE VALUE HA	RANGE CORD/CONNECTORS/CABLE STRAPS/OUTLET	09/19/2021	50.39	100-51600-245
24	WINCHESTER TRUE VALUE HA	QT ENAMEL PAINT	09/19/2021	12.99	100-51600-245
24	WINCHESTER TRUE VALUE HA	3V LITH BATTERY	09/19/2021	6.49	100-25520
24	WINCHESTER TRUE VALUE HA	400' UF CABLE/SPADE TERMINAL/SILL SEALANT	09/19/2021	34.02	100-53300-222

Vendor	Vendor Name	Description	Invoice Date	Net Invoice Amount	GL Account Number
24	WINCHESTER TRUE VALUE HA	12 CUT KEYS FOR SQUADS 27&30	09/19/2021	32.08	100-52110-310
24	WINCHESTER TRUE VALUE HA	PACKAGING TAPE	09/19/2021	10.99	100-53270-310
24	WINCHESTER TRUE VALUE HA	4PK C BATTERIES	09/19/2021	10.99	610-61630-350
24	WINCHESTER TRUE VALUE HA	STRAIGHT VALVE/PLIERS/FURNACE FILTER	09/19/2021	47.97	100-51600-310
24	WINCHESTER TRUE VALUE HA	#448 MISC NUTS,BOLTS,SCREWS	09/19/2021	4.76	100-53230-352
24	WINCHESTER TRUE VALUE HA	KWICKWELD TUBE	09/19/2021	8.99	100-51600-355
24	WINCHESTER TRUE VALUE HA	PAINT/ROLLERS/BRUSHES	09/19/2021	68.54	620-62860-357
24	WINCHESTER TRUE VALUE HA	EXIT SIGNS/ RISE COVER	09/19/2021	5.99	100-53230-310
24	WINCHESTER TRUE VALUE HA	9V BATTERY/MISC NUTS,BOLTS,SCREWS	09/19/2021	25.29	100-53230-352
24	WINCHESTER TRUE VALUE HA	HEX BUSHING/GALV COUPLING	09/19/2021	18.28	610-61620-350
24	WINCHESTER TRUE VALUE HA	KEVLAR BELTS/4PK LIGHT BULBS	09/19/2021	64.96	100-55111-355
Total WINCHESTER TRUE VALUE HARDWARE INC:				572.29	
Grand Totals:				5,281.17	

Dated: 09/29/2021

Finance Director: Steve Hatton

## Report Criteria:

Detail report.

Invoices with totals above \$0.00 included.

Paid and unpaid invoices included.



**Parks and Recreation Board Minutes  
Wednesday, August 18, 2021 – 5:30 pm  
Virtual Meeting**

**Introductions:**

Dan Fuller was introduced as the newest Parks and Recreation Board member.

**1. Call to Order and Roll Call (5:30pm)**

Jan Bilgen, Mike Kilar, Carol McCormick, Megan Matthews, Steve Ryan and Dan Fuller. Absent: Jen Kaina, Matthew Sylvester-Knutson, Jaime Weigel and Traci Wilson.

Staff: Eric Boettcher, Deb Weberpal, Lorelei Bowen, and Brian de la Torriente

**2. Consent Agenda**

**2a. Approval of Parks and Recreation Board minutes of July 21, 2021**

Motion by Ryan to accept the minutes of July 21, 2021. Second by Bilgen. Ayes: Jan Bilgen, Dan Fuller, Mike Kilar, Carol McCormick, Megan Matthews, and Steve Ryan. Absent: Matthew Sylvester-Knutson, Jaime Weigel, Traci Wilson and Jen Kaina. Noes: None. Abstain: None.

(Weigel joined the meeting at 5:32pm)

**3. Hearing of Citizen Comments:**

No formal action will be taken during this meeting, although issues raised may become part of a future agenda. Participants are allotted a 3 minute speaking period. Specific items listed on the agenda may not be discussed at this time; however, citizens are invited to speak to those issues as designated in the agenda.

No comments

**4. Staff Reports**

**4a. Parks & Recreation Director Report - Boettcher**

- Lakes update – spraying of the vegetation on the edges will take place August 23<sup>rd</sup>-Labor Day. This will reduce vegetation going in to the fall. No need to do the middles as that will get dredged. Council has been updated with bids in regards to dredging. Working with a

contractor to send out for a bid. Looking to get a permit in the next 60 days. Hope to have bid numbers back at the end of October to early November.

- Brian de la Torriente has put in his resignation as the Athletic Program Coordinator for Whitewater Parks and Recreation as he has taken on a new position in Illinois.

#### **4b. Athletic Program Coordinator – de la Torriente**

The baseball and softball season seemed to be a success. 9 out of the 10 teams for baseball and softball from grades 2-8 ended up in the top half of the regular season standings. 3<sup>rd</sup>/4<sup>th</sup> Grade State Farm baseball team won the tournament championship. 5<sup>th</sup>/6<sup>th</sup> Grade Toppers baseball team took second place in the end of season tournament.

Tournaments went well for having a year off due to COVID. Only one tournament was cancelled and that was due to participation.

Flag football will be starting up shortly. There is one team for the 1<sup>st</sup>/2<sup>nd</sup> grade level and one team for the 3<sup>rd</sup>/4<sup>th</sup> grade level.

#### **4c. Whitewater Aquatic and Fitness Center Program Manager - Bowen**

Over the past weekend a deep clean was done with pools and locker rooms. Lifeguards had a training to chart chemicals. Starting to plan for swim lessons for September. They will start after Labor Day. Girls high school swim is using the pool as well. The new website has been finished. Fitness classes are going well also. The WAFC will soon be going back to regular pricing pre-Covid. The new Aquatics Coordinator will be attending trainings.

#### **4d. Senior Coordinator – Weberpal**

Made presentation @ council for third accreditation. The 40<sup>th</sup> Anniversary (July 28<sup>th</sup>) celebration for the senior center will be on August 22<sup>nd</sup>. There will be a BBQ from noon-3pm. There will be food, a DJ and classic cars. Seniors in the Park will also be sponsoring one of the concerts in the park and will also have a dementia friendly awareness booth at the City Market. Senior center month is September.

## **5. Considerations**

### **5a. East Gate Sculpture Garden Landscape Plan**

Boettcher - The City has taken on the maintenance of the East Gate Sculpture Garden. This area and the plot along Main Street have been used as prairie restoration in the past. The plan has not been easy since it goes against city ordinances that affect other property owners and has caused conflict. The Neighborhood Services Director is coming up with plans for the downtown areas.

Bilgen - asked if there are other uses for the space other than prairie grass restoration as it is not a very scenic place. Maybe use it as a more interesting option such as habitat for insects or birds. Maybe a sensory garden. It would be nice to get kids/students involved in the project.

McCormick – Putting signage by the sculptures would help. Maybe manageable foliage.

Matthews – There are probably lots of examples out there that can be looked at

Boettcher – Ideas will be brought back to the board

### **5b. Facility Rental Fees**

Boettcher presented current facility rental fees and mentioned field rental fees will not change since there is so much programming use on them and little outside organizational use. Indoor facility fees have not been raised in a while. A modest upcharge of fees would be beneficial for recouping some costs. Looking to raise the fees starting January 1<sup>st</sup>, 2022. The amphitheater will be added to be rented out starting next year as well. The fee will be determined based on other communities' fees.

Ryan moved to approve the increase in facility rental fees starting January 1<sup>st</sup>, 2022. Second by Matthews. Ayes: Mike Kilar, Carol McCormick, Megan Matthews, Steve Ryan, Jan Bilgen, Dan Fuller and Jaime Weigel. Absent: Jen Kaina, Matthew Sylvester-Knutson, and Traci Wilson. Noes: None. Abstain: None.

### **6. Future Agenda items**

Bilgen – Continue to update signage especially for the lakes

McCormick – Suggested students at UW-W assist with signage

Bilgen – It is possible; will explore with marketing groups at UW-W

### **7. Adjournment**

Fuller moved to adjourn. Second by Kilar. Ayes: Mike Kilar, Carol McCormick, Megan Matthews, Steve Ryan, Jaime Weigel, Dan Fuller and Jan Bilgen. Absent: Jen Kaina, Matthew Sylvester-Knutson and Traci Wilson. Noes: None. Abstain: None.

Next scheduled meeting: Wednesday, September 15, 5:30 pm

Respectfully submitted,



Brian de la Torriente





# Whitewater Community Development Authority Board of Directors Meeting

## MINUTES

August 26, 2021

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**Members Present:** Jim Allen, Lisa Dawsey-Smith, Jon Kachel, Jason Gleason, Greg Meyer.

**Members Excused:** Patrick Singer

**Staff Present:** Cathy Anderson (Executive Director); Cameron Clapper (City Manager); Bonnie Miller (CDA Administrative Assistant).

**Guest(s) Present:** John Sotherland (Bicyclewise)

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### 1. Administrative Items

- a. **Call to Order and Roll Call:** Vice-Chair Allen called the meeting to order at 5:30 p.m.
- b. **Authorization to Post Amended Agenda With less Than 72 Hours Notice and Approve Agenda as Amended.** Moved by Meyer to authorize posting of Amended Agenda with less than 72 hours notice and approval of the Agenda as Amended, seconded by Gleason. AYES: All by voice vote (5); NOES: None; ABSENT: Singer.
- c. **Welcome Statement:** Welcome to the Whitewater CDA monthly meeting. Before we begin the meeting this evening, each Commissioner is asked to adjust their camera and microphone, be attentive, actively listen and participate, speak in turn, only speak to items on the Agenda, and not surmise the opinions or ideas of private citizens.
- d. **Declaration of Conflict of Interest:** Would any member(s) of the Board wish to declare any known conflict of interest with the items presented on today's CDA Board Agenda?
- e. **Hearing of Citizen Comments:** No formal CDA Action will be taken during this meeting although issues raised may become a part of a future agenda. Items on the agenda may not be discussed at this time.

- f. **Presentations:** John Sotherland, owner of Bicyclewise & Sports Fitness, LLC, appeared before the Board to give an update regarding his business activities. Mr. Sotherland reported that they have remained open and have managed to survive COVID, having received funding from COVID Relief programs. The supply chain continues to be a problem for them. Mr. Sotherland expressed appreciation for the support they received from the CDA.

October 28	Slipstream (Choton Basu)
TBD	iButtonLink (Rob Olson)
TBD	Learning Depot

- g. **Approval of Minutes:** Moved by Dawsey-Smith and seconded by Meyer to approve the May 20, 2021 Minutes of the CDA Joint Meeting with Council and Plan Commission, the July 15, 2021 Minutes of the Public Hearing—Creation of TIF Districts (as amended to reflect Brienne Brown’s attendance as an Alternate Member of the Plan Commission), the July 22, 2021 CDA Monthly Meeting, and the August 15, 2021 Minutes of the CDA Special Meeting. AYES: All by voice vote (5); NOES: None; ABSENT: Singer.
- h. **Review and Acknowledge Financial Statements:** Director Anderson confirmed her review and approval of the Financial Statements for period ending July 31, 2021 and recommended acknowledgement by the Board. Moved by Dawsey-Smith and seconded by Meyer to acknowledge the Financial Statements for period ending July 31, 2021 as presented. AYES: All by voice vote (5); NOES: None; ABSENT: Singer.

## 2. **Action Items:**

- a. **Review updated Land Sale Policy.** Director Anderson provided a brief overview of a real property policy that is being created for City-wide parcels, including a section specific to CDA the CDA. This policy would identify the process within city government when we acquire or sell property. For example, if we acquire it, it needs to be within budget and needs to be covered, that there is funding for it, and that the property is exempt from general property taxes until the property is rented or sold. Using the CDA-owned Cravath Street house as an example, when the CDA starts renting the Cravath Street house, the property would then return to the tax rolls. When a property is sold, the funds would go into a fund to be held for future land purchase. Moved by Allen and seconded by Meyer to acknowledge review of the Land Sale Policy and recommend referral to CDA legal counsel for review. AYES: All by voice vote (5); NOES: None; ABSENT: Singer.
- b. **Review 2022 CDA Budget for Funds 900 and 910 and narratives.** Director Anderson provided a brief overview of the 2022 CDA Budget documents. Anderson noted that

in 2022 and 2023, Fund 900 will get small amounts and some interest from our accounts, and the CDA will be funded by General Fund transfer from the City. Items in black in the documents were previously in the Budget and the items in red are being added. Anderson next provided an overview of Fund 910 is our loan fund which is not budgeted for. Items in black were previously in the budget document and items in red are being added. The item moving into this document is income and expense for the 206 Cravath House and income and expense for land sale/purchase. Anderson requested that the Board review the documents and present comments or questions to her as soon as possible so that final changes can be made before the next CDA meeting on September 26, 2021.

- c. Remove dead tree from Cravath house.** Anderson reported that there is a dead tree on the property located at 206 Cravath Street that needs to be removed and is currently requesting quotes from local tree service companies. Meyer asked if the City has the equipment and staff available to remove the tree. City Manager Clapper will check with City staff to check availability. Moved by Dawsey-Smith to authorize Anderson to arrange for the dead tree removal, first by City staff and then moving to private contractor at a price not to exceed \$5,000. Motion seconded by Gleason. Motion passed 5-0 by roll call vote. AYES: Meyer, Gleason, Kachel, Dawsey-Smith, Allen; NOES: None; ABSENT: Singer.
- d. Withdraw from Capital Catalyst Program.** Director Anderson recommended withdrawal from the Round 5 \$250,000 Grant from the Capital Catalyst Program. In order to accept the grant, the CDA is required to provided a \$250,000 match. Currently, the CDA does not have funds available to provide the match. Moved by Dawsey-Smith that the CDA withdraw from Round 5 of the Capital Catalyst Program and seconded by Kachel. Motion passed 5-0 by roll call vote: AYES: Kachel, Allen, Dawsey-Smith, Meyer, Gleason.
- e. Review draft of CDA By-Laws and Rules of Procedure.** Director Anderson presented the draft of the CDA By-Laws and Rules of Procedure. The document has been reviewed by MRA and is on the Agenda this evening as the first draft review by the Board's input, comment and direction. The document would then go back to Clapper for staff review, followed by review by CDA legal counsel and the to the Common council for adoption. The document provides the CDA with the responsibilities that the CDA has and the accountability that we will hold ourselves to, including how we run CDA meetings. This document is a repository of the history of the CDA, CDA policies as they are created, CDA programs and a sheet that will track all of our financial awards. Anderson requested guidance and direction from the Board as to how they want to conduct the review process. After some discussion, it was decided that each member would review individually. Anderson noted that if any Board members elects to do a mark-up, she would appreciate a scanned copy be sent to her for consideration.

**f.**

### 3. Updates & Discussion

- a. **2013 UDAG loan made to DP Electronic Recycling.** Anderson stated that after review by CDA legal counsel, the recommendation is to write off the \$34,600 Loan to DP Electronic Recycling be written off at the end of this year.
- b. **Remediation of 206 Cravath Street: Abatement scheduled to begin August 30, 2021.** The contractor will begin the abatement process on August 30, 2021, after which an air quality test will be done. Upon completion of the air quality test, the CDA can then proceed with the remodel process. Anderson stated that using the Youth Build Program is not an option at this time. Meyer suggested using volunteer labor when possible. Gleason commented that, based on his own experience with several volunteer projects, the quality of work was often less than desired and require a tradesman to put his name on the work of volunteers.
- c. **Board attendance sheet.** Board attendance sheet was acknowledged is included in the Agenda packet for informational purposes only.
- d. **Amendment to CDA Charter Ordinance.** Anderson stated that the Common Council has approved the CDA Charter Ordinance and has been entered into the publication phase which is 60 days. The CDA will be able to fill the vacancy on the Board with a citizen member by the end of November.
- e. **Memorandum of Understanding between Community Development Authority and Whitewater Municipal Water Utility Concerning Use and Repayment of CDBG Block Grant Closeout Program Funds approved by CDA on January 28, 2021 (Pending review and approval by Common Council).** Anderson provided a brief review of the purpose of the MOU and reported that the MOU pending review and approval by the Common Council.
- f. **Clearing of Lot 9B in Industrial Park (corner of Enterprise Blvd. and Prospect Dr.).** Anderson reported that she as of this date, no proposals have been received from contractors.
- g. **TIF Closeout Interest of approximately \$142,000 will come back to the CDA and will be put in Fund 910 - Future Land Purchase.** Anderson deferred to Finance Director Hatton who reported that after the final TIF Closeout amounts are determined, interest on the \$750,000 loan that the CDA advanced to the City for TID 4 is due to be paid to the CDA. Hatton reported that interest amount is anticipated to be approximately \$140,000.
- h. **Director Review of Agenda Item 6.** Anderson reported on the current progress of each of the items listed under Agenda Item 6 - Board Member Requests for Future Agenda Items, some of which should be completed by the end of this year. Allen

requested that Item #11 be reworded to read “Recruitment of a developer that will include a grocery merchant in a proposed project.

- i. **Draft of 2020 financial audit performed by Johnson Block presented at the May 25, 2021 Finance Meeting.** Provided for informational purposes.

Report available to view here: <https://www.whitewater-wi.gov/Archive.aspx?AMID=47>

- j. **Innovation Center Update – Director’s Executive Summary Report.** Anderson reported that the Innovation Center is leased out. The one cubicle left is proposed to be leased out to Bird Scooters. Anderson noted that the creator and founder of Bird Scooters is a UW-Whitewater graduate.

- k. **Update regarding pending projects (6) and pending certified survey maps.**

Anderson stated that MNPL is looking at a lot located on Bluff Road the round-about and will be brought back to the CDA at a future meeting.

- 4. **ADJOURN TO CLOSED SESSION.** Moved by Allen and seconded by Dawsey-smith to adjourn to closed session per Wisconsin Statutes 19.85(1)(e) “Deliberating or negotiating the purchase of public property, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session”. Motioned passed by roll call vote. AYES: Meyer, Gleason, Kachel, Dawsey-Smith, Allen; NOES: None; ABSENT: Singer.

Item 1: Deliberation of land purchase.

Item 2: Deliberating sale of Vacant Land (Lot 1, Certified Survey Map No. 4442) located on East Main Court.

Item 3: Consideration of Façade Loan Application for proposed remodel of premises located at 136 W. Main Street (Ilmi Shabani, Owner).

Item 4: Deliberating sale of Vacant Land (Part of Lot 1, Certified Survey Map No. 3050) located on Universal Boulevard.

- 4. **RECONVENE INTO OPEN SESSION.** Reconvene to open session to act on closed session items as needed.

Moved by Dawsey-Smith to approve a Façade Loan in the amount of \$50,000 to Ilmi Shabani contingent upon staff finalizing details with the City Attorney. Seconded by Meyer. Motion passed by roll call vote (4-0). AYES: Gleason, Dawsey-smith, Allen, Meyer; NOES: None; ABSENT: Singer (Kachel lost virtual connection).

Moved by Dawsey-Smith to authorize Anderson to negotiate the sale of vacant land (Part of Lot 1, CSM 3505 located on Universal Blvd.). Seconded By Gleason. Motion passed by roll call vote (4-0). AYES: Meyer, Gleason, Dawsey-Smith; Allen; Meyer; NOES: None; ABSENT: Singer (Kachel lost virtual connection).

- 6. **Board Member Requests for Future Agenda Items:**

1. Roles & Responsibilities of the CDA.
2. Discuss an agreement between City & CDA for CDA's percentage of US Bank P-Card rebates.
3. Create policy between the CDA and City regarding transfers of residual equity from the CDA to the City.
4. Create policy between the CDA and City regarding procurement.
5. Land Sale Policy (Finance director Steve Hatton) – Discussion of Policies and Procedures for Land Sale Transactions by the CDA on behalf of the City.
6. Improvement of physical condition of Lot 9B in the Business Park.
7. Discuss a detention area on Lot 6B with National Guard.
8. CDA Alternative Revenue Streams.
9. Director to visit (virtual/in person) with Whitewater's employers.
10. Add Tax Increment.
11. Recruitment of a grocery merchant.
12. New Housing.
13. Increase population in the Industrial Park.
14. ~~Continue TIF extension & redraw decisions (in process).~~
15. ~~Update Capital Catalyst Program Manual & Application Materials.~~
16. ~~Schedule Board Members for WEDA 2021 ED 101 Training for Board Members and Elected Officials.~~ (Completed July 2021) Training scheduled for September 1.
17. ~~Discuss a marketing strategy for the CDA.~~
18. ~~Fix the CDA description in the 2021 City Budget Document.~~ (Completed January 2021)
19. ~~Establish a reno group for 206 E. Cravath.~~ (Completed January 2021)
20. ~~Create policy between the CDA and City regarding repayment of 2021 CDBG Closeout Program funds from the City.~~ (Completed January 2021)

7. **Adjournment.**

Moved by Gleason and seconded by Dawsey-Smith. AYES: All by voice vote (4); NOES: None; ABSENT: Singer (Kachel lost virtual connection).

Meeting adjourned at 7:25 p.m.

Respectfully submitted,  
Bonnie Miller, Recorder

Minutes approved by CDA Board: September 23, 2021.



## Council Agenda Item

Meeting Date:	October 5, 2021
Agenda Item:	Ward Reapportionment 2021
Staff Contact (name, email, phone):	Michele Smith, <a href="mailto:msmith@whitewater-wi.gov">msmith@whitewater-wi.gov</a> , 262-473-0102

### BACKGROUND

(Enter the who, what when, where, why)

After the Federal census is completed every 10 years, the City must realign their wards, incorporating the new population figures. Because of the delay in issuance of census numbers this year, all deadlines have been drastically changed, and there are tight requirements in place. Counties are the first governmental body to create their proposed supervisory district boundaries, then municipalities follow. At this point, the County's proposal is in draft form, but we must all work as a team so that our local boundaries coincide with the proposed county supervisory district lines. After Wards and County districts are adopted, the process moves on to the State level.

As part of the census process, the Federal Government develops census tracts, which are combined to create wards. (Wards are created at the local level). Wards for a city our size should have a population range between 600 – 2100, and cannot cross county supervisory districts or counties. Except in rare circumstances, they must consist of entire census blocks. Census blocks have very inconsistent populations – some with as few as no residents, and some with over 1,500 people. Obviously, the blocks located on University property have a higher density, and as a result, are smaller in geographical area. Once wards are approved, Aldermanic Districts are created by combining those wards. Although they are separate processes, as Clerks work on this, they must view the larger picture, and as a result, I worked on Wards and Aldermanic Districts concurrently. It is desirable that population figures for Aldermanic Districts be within 10% of each other, although that is not a mandatory figure.

The Ward ordinance must be approved and submitted to the County by October 18, 2021. I am asking that you consider waiving the second reading of the **Ward** ordinance at Tuesday's meeting. The Councilmember **Aldermanic District** ordinance does allow some additional time for approval.

Although Council is being asked to approve only Wards at this meeting, information about the proposal for aldermanic districts is also provided below. The proposed plan does place all University owned dormitories in Wards that are normally assigned to the campus polling location for the Presidential, Presidential Primary, and Gubernatorial elections. Most off-campus housing residents will have to vote at the Downtown Armory.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

### FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

Clerk recommends that the Ordinance adopting the Wards be approved, and that waiver of a second reading of the ordinance also be approved. If waiving the first reading is not approved, the Council will be asked to hold a special Council meeting to adopt the second reading, as the County has asked that we have an approved Ward plan to them no later than October 18, 2021. (Sorry about the tight timeline – everyone has had to shorten their normally-allowed timeline due to the very late arrival of the census information, plus the fact that 2022 election candidates can begin circulating papers as early as December 1).

The adoption of Aldermanic Districts requires a Class 2 notice. It is the intention of the Clerk’s office to use as many notice outlets as possible to provide the Aldermanic District information to the public.

Below are the population figures for each Ward. Populations must range between 600 – 2100 for our municipality. I have increased the number of wards from 12 to 13. In anticipation of creation of Aldermanic Districts, I have already anticipated the combinations I will present at a future meeting.

**Proposed Wards, Aldermanic Districts, and Populations Table**

<i>Ward Number (Population Range to be between 600 – 2100)</i>	<i>Ward Population</i>	<i>County Supervisory District</i>	<i>Assigned to Aldermanic District Number:</i>	<i>Grand Total Aldermanic District Population</i>
1	868	3	1	.
2	1234	3	1	.
3	907	4	1	3009
4	769	4	3	.
5	2024	4	3	2793
6	1167	4	4	.
7	953	4	4	.
8	869	4	4	3065
9	931	4	2	.
10	1999	4	2	2930
11	279	25	5	
12	1234	24	5	
13	1655	24	5	3168

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\*Ward 11 does not meet minimum population requirement; however, due to County Supervisory District boundary requirements, Jefferson County advises this is the only option for this ward and the minimum population requirement is waived.

Assuming the wards as presented are adopted, the Clerk's office will be recommending the following Aldermanic District combinations at a future meeting:

ALDERMANIC DISTRICT 1 is made up of Wards 1, 2 & 3

ALDERMANIC DISTRICT 2 is made up of Wards 9 & 10 (University location)

ALDERMANIC DISTRICT 3 is made up of Wards 4 & 5

ALDERMANIC DISTRICT 4 is made up of Wards 6, 7 & 8

ALDERMANIC DISTRICT 5 is made up of Wards 11, 12 & 13 (Jefferson County)

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ATTACHMENTS INCLUDED:

\*DRAFT ORDINANCE – needs one more detailed proofreading of metes and bounds descriptions

\*Maps showing Ward proposals for Walworth and Jefferson Counties

CONTACT INFORMATION: Michele Smith, Clerk

(262) 473-0102      msmith@whitewater-wi.gov

**ORDINANCE AMENDING CHAPTER 1.08 OF THE CITY OF WHITEWATER  
MUNICIPAL CODE ENTITLED “WARDS”**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, does hereby ordain as follows:

Chapter 1.08 of the Whitewater Municipal Code is hereby amended as follows:

**SECTION 1**

**1.08.010 Ward Boundaries.** The City of Whitewater shall be divided into thirteen wards as follows in this chapter.

**SECTION 2.**

**Section 1.08/020 Ward 1, is amended to read as follows:** Commencing at the Southeasterly point of the City of Whitewater Municipal Boundary at its intersection with US Highway 12,

thence generally north and easterly along City of Whitewater municipal boundary to its intersection with the Walworth – Jefferson County line;

Thence west along said County line to the intersection of Highway 59 / N. Newcomb Street and the Jefferson County line;

Thence south along Highway 59 / N. Newcomb Street to its intersection with E. Milwaukee Street;

Thence easterly along East Milwaukee Street / US Highway 12 / Elkhorn Road along City of Whitewater boundaries to the point of beginning.

**SECTION 3.**

**Section 1.080.030 Ward 2, is amended to read as follows:** Commencing at the intersection of Old Highway P and the City of Whitewater Municipal boundary line;

Thence generally northwesterly along city boundary and Highway 12 / Elkhorn Road / E. Milwaukee Street to its intersection with E. Main Street;

Then generally westerly along E. Main Street to the intersection of E. Main Street and W. Whitewater Street;

Thence southwesterly on W. Whitewater Street to its intersection with S. Fremont Street;

Thence southeasterly along S. Fremont Street to its intersection with Ann Street;

Thence southwesterly along Ann Street to its intersection with S. Franklin Street;

Thence southerly along S. Franklin Street to its intersection with W. Caine Street;

Thence westerly along W. Caine Street to its intersection with Gault Street;

Thence northerly along Gault Street to its intersection with W Harper Street;

Thence Southwesterly along Harper Street to its intersection with Highway 59;

Thence southerly along Highway 59 to the City of Whitewater boundary;

Thence generally easterly and southerly along the City of Whitewater municipal boundary line to Old Highway P, the point of beginning.

#### **SECTION 4**

**Section 1.080.040 Ward 3, is amended to read as follows:** Commencing at the intersection of E. Milwaukee Street and North Newcomb Street;

Thence northerly along N. Newcomb Street / State Road Highway 59 to the Walworth – Jefferson County line;

thence westerly along the Walworth - Jefferson County line to its intersection with Fremont Rd/Fremont Street;

Thence southeasterly along Fremont Street to its intersection with W. North Street;

Thence easterly along W. North Street to its intersection with Whitewater Creek;

Thence southerly along Whitewater Creek to its intersection with E Main Street;

Thence easterly along E Main Street to its intersection with E Milwaukee Street;

Thence easterly along E Milwaukee Street to its intersection with N. Newcomb Street (point of beginning)

Thence easterly along W. North Street to its intersection with N. Fremont Street (point of beginning).

#### **SECTION 5.**

**Section 1.08/050 Ward 4, is amended to read as follows:** Commencing at the intersection of W. North Street and N. Fremont Street;

Thence north along Fremont Street to the Walworth – Jefferson County line;

Thence westerly along the Walworth - Jefferson County line to its intersection with N. Prairie Street;

Thence south on N. Prairie Street to its intersection with W. Main Street;

Thence easterly along W. Main Street to its intersection with W. North Street;

Thence easterly along W. North Street to its intersection with N. Fremont Street (point of beginning).

#### **SECTION 6.**

**Section 1.08.060 Ward 5, is amended to read as follows:** Commencing at the intersection of S. Franklin Street and W. Caine Street;

Thence northerly along Franklin Street to its intersection with W. Ann Street;

Thence northeasterly along W. Ann Street to its intersection with S. Fremont Street;

Thence northwesterly along S. Fremont Street to its intersection with Whitewater Street;

Thence northeasterly on Whitewater Street to its intersection with Whitewater Creek;

Thence northwesterly along Whitewater Creek to its intersection with W. North Street; Thence westerly on North Street to its intersection with W. Main Street;

Thence along W. Main Street to its intersection with Whiton Street;

Thence south along Whiton Street to its intersection with W. Walworth Avenue;

Thence east on W. Walworth Avenue to its intersection with S. Janesville Street;

Thence southwesterly along S. Janesville Street to its intersection with the Wisconsin and Southern Railroad tracks;

Thence southwesterly along said railroad tracks to the intersection of the railroad tracks and the southwestern most City of Whitewater municipal boundary;

Thence Northeast along the City of Whitewater Municipal boundary travelling generally northeasterly to its intersection with State Road 59;

Thence northeasterly and southeasterly along City of Whitewater Municipal Boundary line to its intersection with State Road 89;

Then along State Road 89 / 59 to its intersection with Harper Street;

Thence northeasterly along Harper Street to its intersection with S. Gault Street;

Thence south on S. Gault Street to its intersection with W. Caine Street;

Thence east on W. Caine Street to its intersection with S. Franklin Street. (Point of beginning).

### **SECTION 7.**

**Section 1.080.070 Ward 6, is amended to read as follows:** Commencing at the intersection of the Wisconsin and Southern railroad tracks and the southwestern City of Whitewater municipal boundary;

Thence northeasterly along said railroad tracks to its intersection with S. Janesville Street;

Thence northeasterly along State Road 59 / S. Janesville Street to its intersection with W. Walworth Avenue;

Thence westerly along W. Walworth Avenue to its intersection with S. Whiton Street;

Thence northerly along S. Whiton Street to its intersection with W. Main Street;

Thence west on W. Main Street to its intersection with S. Elizabeth Street;

Thence south on S. Elizabeth Street to its intersection with W. Walworth Avenue;

Thence west on W. Walworth Avenue to its intersection with Indian Mound Parkway;

Thence southerly along Indian Mound Parkway to its intersection with UW Highway 12;

Thence northwesterly along US Highway 12 to its intersection with W Walworth Avenue;

Thence southeasterly and southerly along west City of Whitewater municipal boundary line to the intersection of the City of Whitewater Municipal boundary and the Wisconsin and Southern railroad track (point of beginning).

### **SECTION 8.**

**Section 1.080.070 Ward 7, is amended to read as follows:** Commencing at the intersection of W. Walworth Ave. and S. Elizabeth Street;

Thence northerly along Elizabeth Street to its intersection with W. Main Street;

Thence westerly along W. Main Street to its intersection with the City of Whitewater municipal boundary line;

Thence westerly along said City of Whitewater municipal boundary line to its intersection with the Walworth – Rock county line;

Thence south and easterly along City of Whitewater Municipal Boundary along the Rock – Walworth County line to its intersection with Walworth Avenue;

Thence easterly along City of Whitewater Municipal Boundary line to its intersection with W. Walworth Avenue;

Thence easterly along W. Walworth Avenue bypass line to its intersection with Highway 12;

Thence southeasterly along UW Highway 12 to its intersection with Indian Mound Parkway;

Thence northerly along Indian Mound Parkway to its intersection with W Walworth Avenue;

Thence east on West Walworth Avenue to its intersection with S. Elizabeth Street (point of beginning).

### **SECTION 9.**

#### **Section 1.080.080 Ward 8, is amended to read as follows:**

Commencing at the intersection of W. Main Street and N. Tratt Street;

Thence North on N. Tratt Street to its intersection with the Walworth – Jefferson County line;

Thence westerly along said County line to its intersection with Warner Road / Tri County Road;

Thence southerly along Warner Road to the intersection of Warner Road and the City of Whitewater Municipal boundary;

Thence easterly, northwesterly, northeasterly and southerly to the intersection of the Whitewater Municipal boundary and UW Highway 12;

Thence southeasterly along US Highway 12 /Main Street , and along W. Main Street to its intersection with N. Tratt Street. (point of beginning).

### **Section 10.**

**Section 1.080.090 Ward 9, is amended to read as follows:** Commencing at the intersection of W. Main Street and North Prairie Street;

Thence north on N. Prairie Street to its intersection with Starin Road;

Thence west on Starin Road to its intersection with N. Tratt Street;

Thence south on N. Tratt Street to its intersection with W. Main Street;

Thence east on W. Main Street to its intersection with N. Prairie Street (point of beginning).

### **SECTION 11.**

**Section 1.080.100 Ward 10, is amended to read as follows:** Commencing at the intersection of W. Starin Rd.. and N. Prairie Street;

Thence northerly along N. Prairie Street to its intersection with Lauderdale Drive (Walworth – Jefferson County line);

Thence westerly along the Walworth – Jefferson County line, continuing on W. Schwager Drive and the intersection of the Walworth – Jefferson County line Road and N. Tratt Street;

Thence southeasterly along N. Tratt Street to its intersection with W. Starin Road;

Thence easterly along W. Starin Road to its intersection with N. Prairie Street (point of beginning);

### **SECTION 12.**

**Section 1.080.110 Ward 11, is amended to read as follows:**

Commencing at the intersection of N. Tratt Street and the Walworth - Jefferson County line;

Thence generally northwesterly on N. Tratt Street, along the City of Whitewater municipal boundary lines to its intersection with Foxglove Lane;

Thence along Foxglove Lane to its intersection with Blooming Field Drive;

Thence southwesterly along Blooming Field Drive to its intersection with N. Tratt Street;

Thence northerly along N. Tratt Street to its intersection with the City of Whitewater Municipal Boundary

Thence westerly along the City of Whitewater Municipal boundary;

Thence southerly along the City of Whitewater Municipal boundary to its intersection with the Walworth – Jefferson County line;

Thence easterly along the Walworth – Jefferson County line to the point of beginning (County line and N. Tratt Street).

### **SECTION 13.**

**Section 1.080.120 Ward 12, is amended to read as follows:**

Commencing at the intersection of E. Lauderdale Drive and Fremont Road, at the Walworth - Jefferson County line;

thence north on Fremont Road to its intersection with Schwager Drive;

thence west then southerly on Schwager Drive to its intersection with the Walworth - Jefferson County line;

thence west along the Walworth - Jefferson County line (West Schwager Drive);

Thence northwesterly on N. Tratt Street meandering east, then north, then west, then north then west, continuing along the boundary of the City of Whitewater;

Continuing northwesterly on N. Tratt Street, thence east, north, and west along the City of Whitewater municipal boundary, to its intersection with N. Tratt Street;

Thence northwesterly along N. Tratt Street to its intersection with Foxglove Lane;

Thence generally northeasterly along Foxglove Lane to its intersection with Bloomingfield Drive;

Thence southwesterly along Bloomingfield Drive to its intersection with Tratt Street;

Thence northerly along N. Tratt Street to its intersection with the City of Whitewater municipal boundary line; continuing in a generally eastern direction along the City of Whitewater municipal boundary line to its intersection with County Road U;

Thence southerly along the City of Whitewater Municipal Boundary Line, to its intersection with Fremont Road;

Thence northerly, easterly then northerly along City of Whitewater municipal boundaries to its intersection with County Road Highway U;

Thence northerly at intersection of County Road U and City of Whitewater municipal boundary;

Thence East to the intersection of the City of Whitewater Municipal Boundary and County Trunk Highway D;

Thence generally southerly along City of Whitewater Municipal Boundary to its intersection with the Walworth County line;

Thence east along the Walworth – Jefferson County line to its intersection with Fremont Road;

Thence northerly along Fremont Road to its intersection with Schwager Drive (point of beginning).

AND

Commencing at the intersection of the Walworth - Jefferson County line and Howard Road;

Thence westerly along the Walworth Jefferson County line to its intersection with State Highway 59 (Newcomb Street);

Thence northerly, easterly, northwesterly, thence southwesterly to its point with Highway 59, along the City of Whitewater Municipal boundary line;

Thence north on Highway 59 (Newcomb Street) along the City of Whitewater Municipal boundary continuing northeasterly along Highway 59 to the City of Whitewater municipal boundary,

thence south, easterly, southerly, and southeasterly along said municipal boundary to its point with Howard Road;

Thence southerly along Howard Road, along the City of Whitewater Municipal boundary to its intersection with the Walworth County line. (Point of beginning).

**SECTION 14.**

**Section 1.080.130 Ward 13, is hereby added as follows:** Commencing at the intersection of E. Lauderdale Drive and Fremont Road;

Thence northerly to the intersection of Fremont Road and Schwager Drive;

Thence westerly then southerly along Schwager Drive to its intersection with the Walworth - Jefferson County line;

Thence easterly along the County line to the intersection of Lauderdale and Fremont Road (point of beginning).

Ordinance introduced by Councilmember \_\_\_\_\_ who moved its adoption.  
Seconded by Councilmember \_\_\_\_\_.

AYES:

NOES:

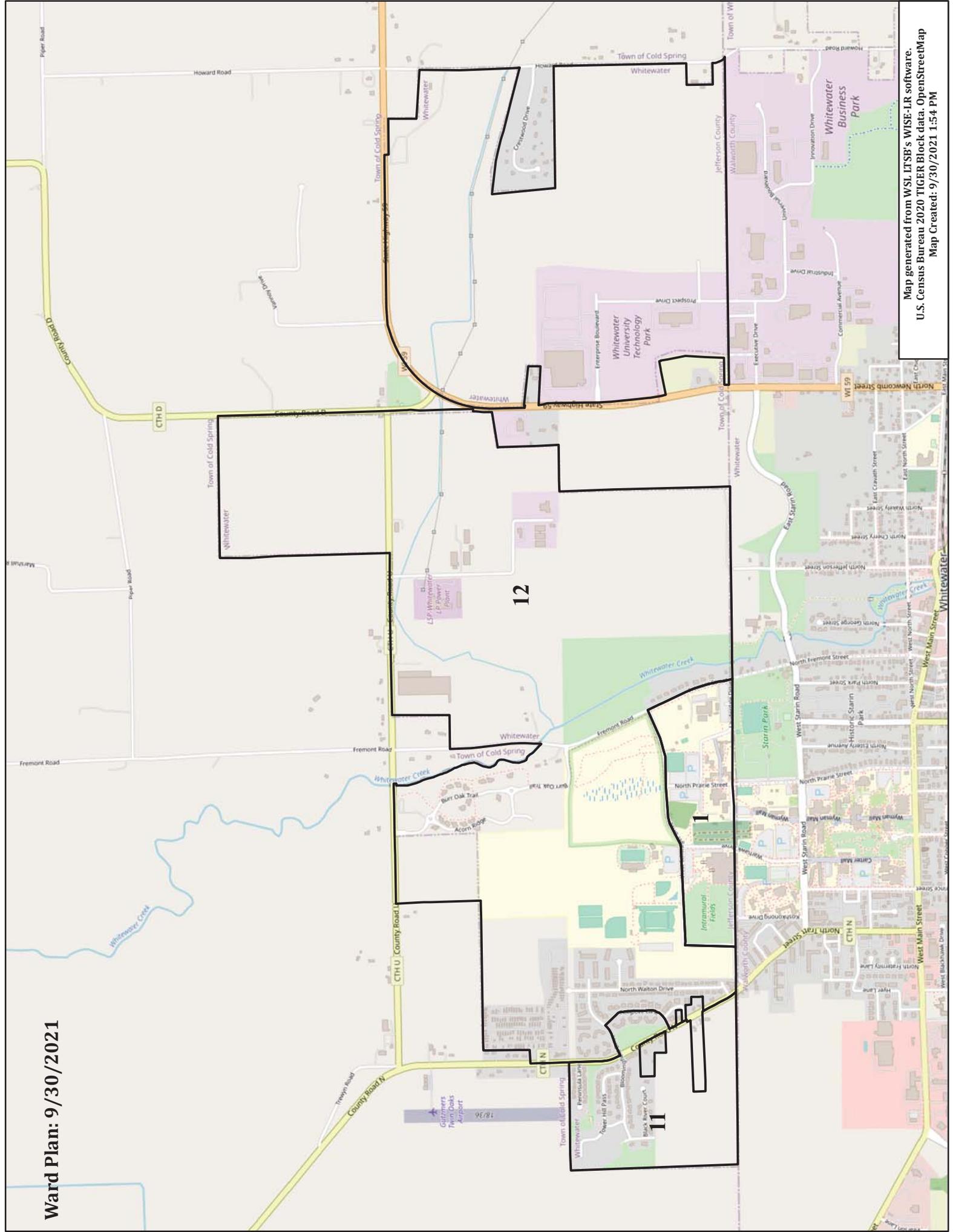
ABSENT:

ADOPTED:

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Ward Plan: 9/30/2021





## Council Agenda Item

Meeting Date: Oct. 5, 2021

Agenda Item: Ordinance Amending Chapter Subsection 5.56.010

Staff Contact (name, email, phone): Chris Bennett [cbennett@whitewater-wi.gov](mailto:cbennett@whitewater-wi.gov) (262) 473-0143

### BACKGROUND

(Enter the who, what when, where, why)

At Councilmember Allen's request Ordinance 5.56.010 – Storage – Permit required is being amended.

It is proposed Paren (B) be amended to eliminate police approval for canvas, plastic tarpaulins or car covers. The proposed edit requires any vehicle stored on a vehicle owner's property while also being actively raced, restored or repaired be located in the rear yard on a hard surface and comply with all applicable ordinances.

The City Attorney made additional edits following presentation of this matter at the Sept. 21 council meeting.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The council discussed this matter at the Sept. 21 council meeting, but did not act. Tonight's agenda item counts as the first reading.

### FINANCIAL IMPACT

(If none, state N/A)

N/A

### STAFF RECOMMENDATION

Suggest any desired changes, move to the second reading at the 10.18 council meeting and adopt the revised ordinance.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

A copy of the proposed ordinance is included.

ORDINANCE No. \_\_\_\_\_  
AN ORDINANCE AMENDING SUBSECTION 5.56.010  
STORAGE—PERMIT REQUIRED

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 5.56 Subsection 5.56.010 is hereby amended to read as follows:

5.56.010 – Storage—Permit required

- (a) No person, firm, partnership, or corporation shall accumulate or store any junked, disassembled, inoperable, or unlicensed automobiles or trucks or parts thereof, outside of any building on any real estate located in the city, except upon a permit issued by the city council.
- (b) If an owner is actively racing, restoring, or repairing a vehicle, one vehicle, including stock/race vehicles, may be stored on the vehicle owner's property, based on a permit being issued by the City Manager or his or her designee, for a period of up to one year when said vehicle is covered with a canvas, tarpaulin or manufactured vehicle cover that is properly secured, free of rips and tears and covers the vehicle to the wheels/tires. The stored vehicle must be located in the rear yard, be parked on a hard surface, and be in compliance with the zoning ordinance and all other city ordinances.

Ordinance introduced by Council Member \_\_\_\_\_, who moved its adoption.

Seconded by Council Member \_\_\_\_\_.

AYES:  
NOES:  
ABSENT:  
ADOPTED:

\_\_\_\_\_  
Cameron Clapper, City Manager

\_\_\_\_\_  
Michele R. Smith, City Clerk

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE AMENDING SECTION 1.21.010 SCHEDULE OF DEPOSITS  
ESTABLISHING A FINE FOR VIOLATION OF CHAPTER 1.33 RESIDENCE  
RESTRICTIONS FOR SEX OFFENDERS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

**SECTION 1:** Whitewater Municipal Code Section 1.21.010 is hereby amended by adding the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
Chapter 1.33	Violation of Sex Offender Residence Restriction	1 <sup>st</sup> Offense - \$500.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment.  2 <sup>nd</sup> and Subsequent Offenses - \$700.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment.

**SECTION 2:** This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember \_\_\_\_\_, who moved its adoption. Seconded by Councilmember \_\_\_\_\_.

AYES:

NOES:

ABSENT:

ADOPTED:

\_\_\_\_\_  
Cameron Clapper, City Manager

\_\_\_\_\_  
Michele R. Smith, City Clerk



## Council Agenda Item

Meeting Date:	Tuesday, October 5, 2021
Agenda Item:	Ordinance Restricting Residence for Sex Offenders
Staff Contact (name, email, phone):	Cameron Clapper, <a href="mailto:cclapper@whitewater-wi.gov">cclapper@whitewater-wi.gov</a> , 262.473.0104

### BACKGROUND

(Enter the who, what when, where, why)

This is the second reading of proposed ordinance 1.33 establishing residence restrictions for registered sex offenders.

The City staff met and reviewed Sex Offender Ordinance map 1 (least restrictive) and map 2 (middle restrictive) as presented at the last common council meeting. Based on common council feedback, Olivia Pratt created a new map for review. Map 4 is included in the packet, along with the original maps 1, 2 and 3 from September 21.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The common council reviewed and approved ordinance 1.33 on September 21, 2021.

### FINANCIAL IMPACT

(If none, state N/A)

None.

### STAFF RECOMMENDATION

Staff recommends adoption of Ordinance Chapter 1.33 together with Map 4 as provided in the agenda packet. Staff would also recommend adoption of Ordinance Amendment to Chapter 1.21.010 outlining fines associated with violations of Chapter 1.33.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

- Draft Ordinance creating Chapter 1.33 Residence Restrictions for Sex Offenders
- Draft Ordinance Amending Chapter 1.21.010 with fines for violations of Chapter 1.33
- Child Safety Zone Maps:
  - o Map 1 Excluding Trails
  - o Map 2 Including Park Trails
  - o Map 3 Including All Trails
  - o Map 4 Incorporating Common Council Feedback

ORDINANCE No. \_\_\_\_\_  
AN ORDINANCE CREATING CHAPTER 1.33 RESIDENCE RESTRICTIONS FOR SEX  
OFFENDERS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 1.33 is hereby created to read as follows:

1.33 Residence Restrictions for Sex Offenders

(1) Findings and Intent. The Common Council finds that Sex Offenders are persons who present a serious threat to public safety. Sex Offenders are extremely likely to use physical violence when they offend. Many Sex Offenders commit multiple offenses, have more victims than are reported, and are prosecuted for only a fraction of their crimes. This makes the cost of Sex Offender victimization to society great and justifies efforts to protect the public from it.

The Common Council has reviewed a 2003 study by the U.S. Department of Justice, Bureau of Justice Statistics, titled Recidivism of Sex Offenders Released from Prison in 1994. That study indicates that sex offenders released from prison were four times more likely to be rearrested for a sex crime as compared to non-sex offenders released from prison. Of those individuals included in the study, forty (40) percent of new sex crimes committed by those sex offenders released from prison had occurred within the first twelve (12) months of release. Further, child molesters who were released from prison were at least six times more likely to be rearrested for another sex crime against a child as compared to a non-sex offender released from prison.

In addition, the City Council has reviewed a 2019 study by the U.S. Department of Justice, Bureau of Justice Statistics, titled Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-2014). That study indicates that sex offenders released from prison were more than three times as likely as other released prisoners to be arrested for rape or sexual assault.

Because reducing both opportunity and temptation will minimize the risk of re-offense for those Sex Offenders who will re-commit sex offenses against children and others, there is a compelling need to separate Sex Offenders from places where children congregate or play in public places.

The Common Council is also aware that many other communities in Wisconsin, including the City of Milwaukee and the City of Brookfield, have New Resident Restrictions (see (4) below) and that if Whitewater does not have a New Resident Restrictions clause in its ordinance, it may have a disproportionately high number of new residents who are recently convicted sex offenders that had not previously lived in Whitewater. This would have adverse impacts on the health, safety, and welfare of residents of the city.

It is also the intent of the Common Council to protect the safety and welfare of its citizens by creating zones around places where children regularly gather, in which certain Sex Offenders are prohibited from establishing Residence.

It is not the intent of the Common Council to impose additional punishment on Sex Offenders.

(2) Definitions. For purposes of this section:

(a) “Athletic facilities” includes fields used for football, soccer, baseball and other field sports; swimming pools; water parks; skate and skateboard parks; tennis courts; basketball courts; as well as those facilities commonly understood to be used for athletic purposes.

(b) Child means a person under the age of 18 years.

(c) Child Safety Zone means an area within 750 feet of any private or public school, recreational trail, playground, park having a children’s playground, park having athletic facilities used by persons younger than 18 years of age, childcare center licensed pursuant to Wis. Stats. §48.65, within the City of Whitewater.

(d) Residence means a place where a person resides or dwells, or is used by a person as the primary location for basic life functions such as sleeping or eating; whether short or long-term but for an aggregate of 14 or more days in any one-year period.

(e) Chapter means this Municipal Code Chapter 1.33.

(f) Sex Offender, for purposes of this Chapter, means:

(i) Any person who is required to register under Wis. Stats. §301.45.

(ii) Any person committed to the state Department of Health Services for specialized treatment pursuant to Wis. Stats. §975.06.

(iii) Any person placed on lifetime supervision by the state Department of Corrections pursuant to Wis. Stats. §939.615 or §971.17(1j).

(3) Child Safety Zone Restriction. No Sex Offender shall establish or maintain a residence in the City of Whitewater within a child safety zone.

(4) New Resident Restriction. A Sex Offender shall not establish a residence within the City of Whitewater unless the person was domiciled in the city at the time of the offense resulting in the persons most recent conviction which caused the person to qualify as a Sex Offender under this ordinance.

(5) Residence Restriction, Exceptions. No Sex Offender shall establish or maintain a Residence within a Child Safety Zone, except under the following circumstances:

(a) It is specifically ordered that the Sex Offender reside within a Child Safety Zone in the City of Whitewater by a circuit court having competent jurisdiction.

(b) The Sex Offender established the Residence within 750 feet of a private or public school, recreational trail, playground, park having a children’s playground, park having athletic facilities used by persons younger than 18 years of age, licensed day care center as defined in Wis. Stats. §48.65, reported and registered the Residence pursuant to Wis. Stats. §301.45 before September 1, 2021 and has continuously maintained that Residence since then. Interruptions of Residence for the following reasons shall not be deemed to disqualify continuous maintenance of Residence:

(i) Incarceration in a Wisconsin correctional facility.

(ii) Participation in programs as required by the Wisconsin Department of Corrections.

(iii) Participation in activities as required by the federal or state government, or a federal or state court.

(iv) Interruptions of no longer than 180 days, for any reason.

(c) The person is excepted from sex-offender registration pursuant to Wis. Stats. §301.45(1m).

(d) The private or public school, recreational trail, playground, park having a children's playground, park having athletic facilities used by persons younger than 18 years of age, childcare center, around which a Child Safety Zone exists first existed after the Sex Offender established Residence and reported and registered the Residence pursuant to Wis. Stats. §301.45.

(e) The Sex Offender's Residence is within a jail, juvenile facility or other correctional facility at which the Sex Offender is serving a court-ordered sentence.

(f) The Sex Offender is a minor or ward under guardianship and is residing with his or her parent or guardian.

(6) Sex Offenders Subject to Chapter 980. A Sex Offender that has been adjudicated a sexually violent person pursuant to Wisconsin Statutes Chapter 980 shall not be in violation of subsection (3) or (4) if the Sex Offender is subject to supervised release under Chapter 980, the Sex Offender is residing where he or she is ordered to reside under Wis. Stats. §980.08, and the Sex Offender is in compliance with all court orders issued under Chapter 980.

(7) Measurement of Distances. The boundaries of the Child Safety Zone shall be determined by measuring from the outer property boundary of private or public schools, recreational trails, playgrounds, parks having a children's playground, parks having athletic facilities used by persons younger than 18 years of age, and child care centers, along the shortest line to the outer property boundary of a Sex Offender's Residence. If any portion of a property is within a Child Safety Zone, then the entire property shall be deemed within the Child Safety Zone.

(8) Map of Child Safety Zone. The City shall maintain an official map showing the Child Safety Zone defined in subsection (2)(c) and shall update the map at least annually to reflect any changes.

(9) Notice. Sex Offenders shall within 30 days of this ordinance being enacted (or 10 days of establishing residence in the City of Whitewater) whichever is later, provide in writing to the City Clerk of the City of Whitewater their name, date of birth, and address.

(10) Penalty. A person who violates provisions of this ordinance shall be subject to a forfeiture of not less than \$300.00 and no more than \$1,000.00 for each violation. Each day a violation continues shall constitute a separate offense. The City may also seek equitable relief to gain compliance.

(11) Severability. It is the express intent of the Common Council that the provisions of this Chapter are severable, and that if any part of this Chapter is held invalid by a court having competent jurisdiction, then that invalid part shall be severed, and the remainder shall remain in effect and enforceable.

Ordinance introduced by Council Member \_\_\_\_\_, who moved its adoption.

Seconded by Council Member \_\_\_\_\_.

AYES:

NOES:

ABSENT:

ADOPTED:

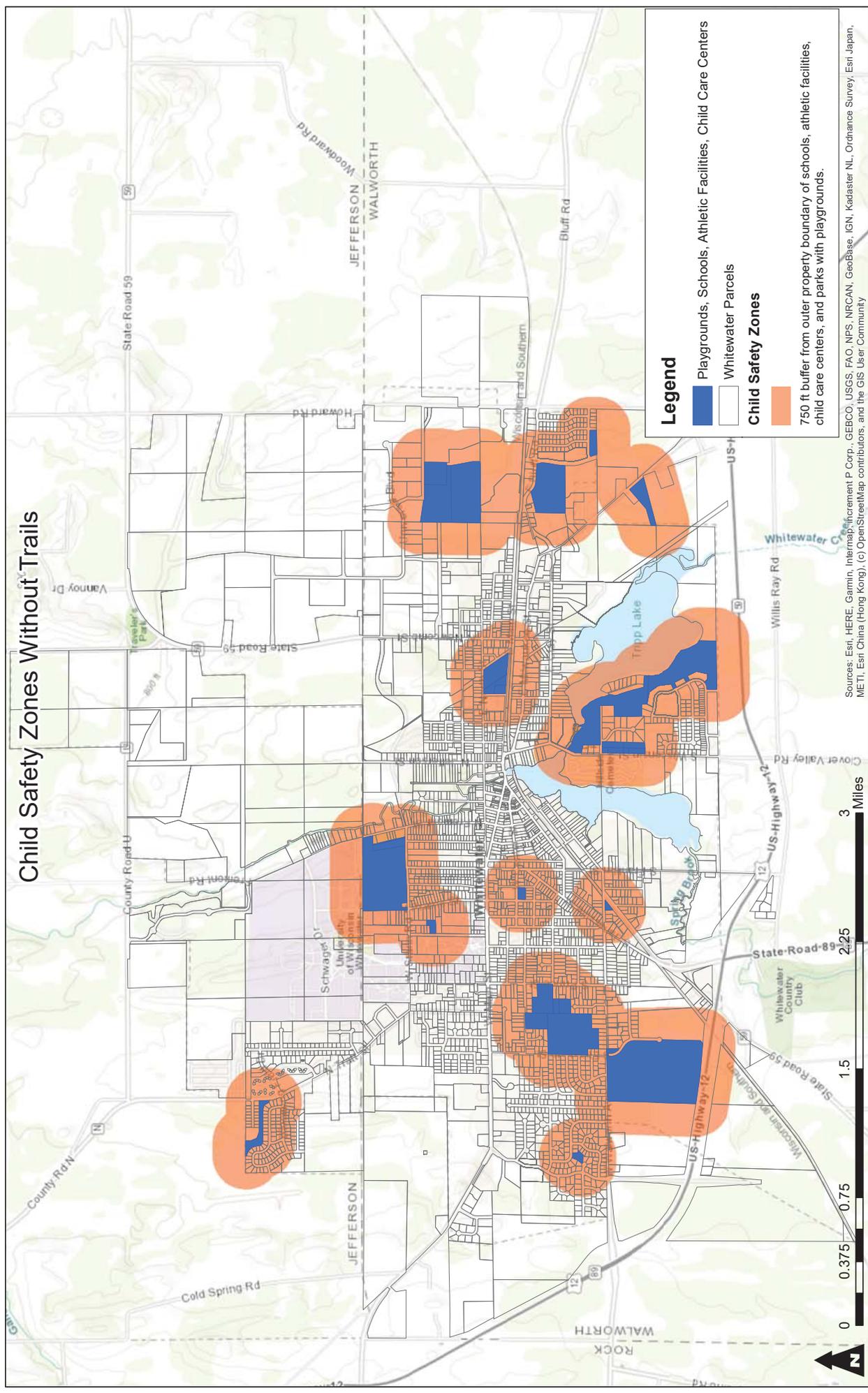
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Cameron Clapper, City Manager

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Michele R. Smith, City Clerk

# Child Safety Zones Without Trails



**Legend**

- Playgrounds, Schools, Athletic Facilities, Child Care Centers
- Whitewater Parcels

**Child Safety Zones**

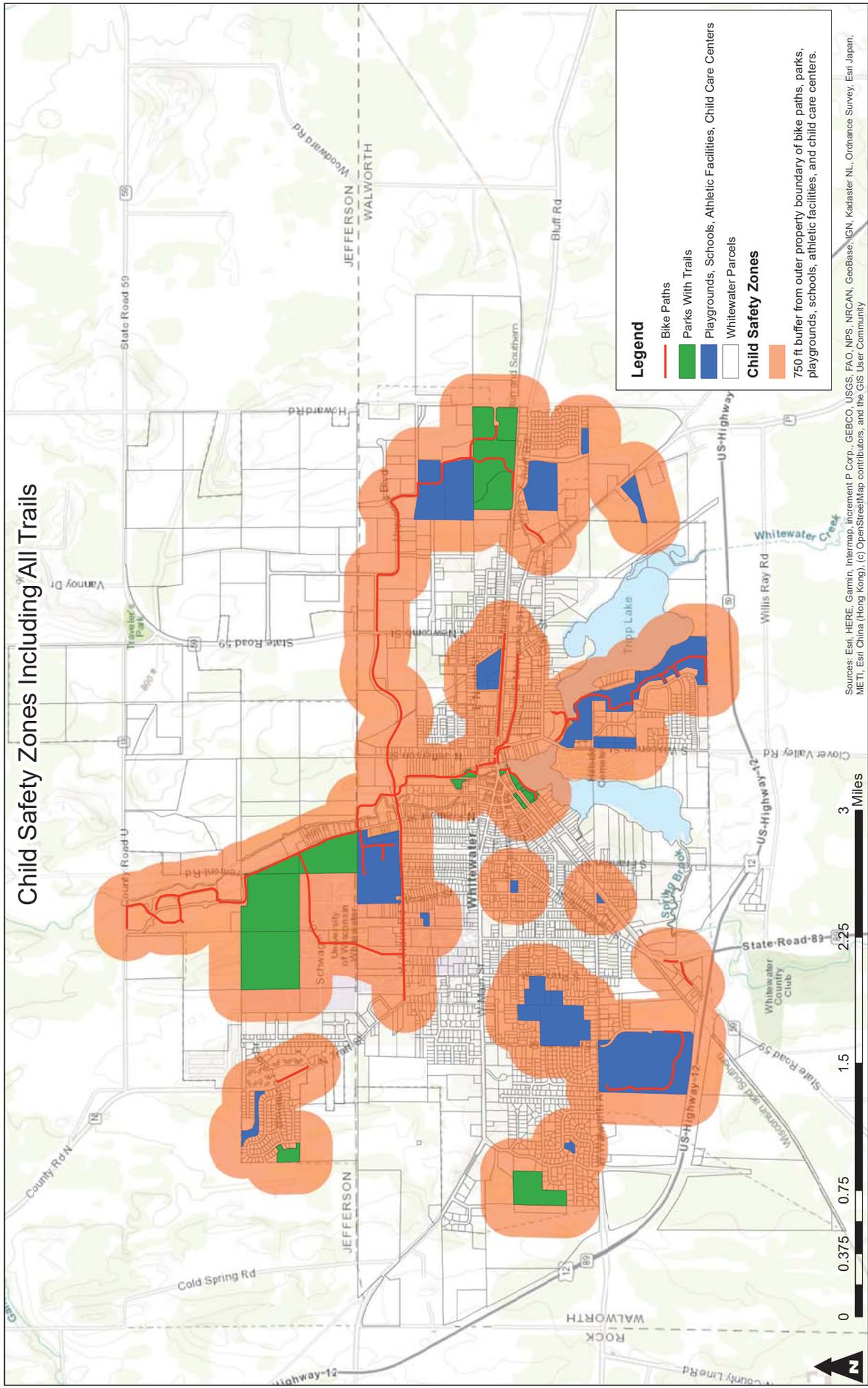
- 750 ft buffer from outer property boundary of schools, athletic facilities, child care centers, and parks with playgrounds.

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBasis, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MEI, Esri China (Hong Kong), Swisstopo, Mapbox Contributors, Swisstopo, Mapbox Contributors, and the GIS User Community

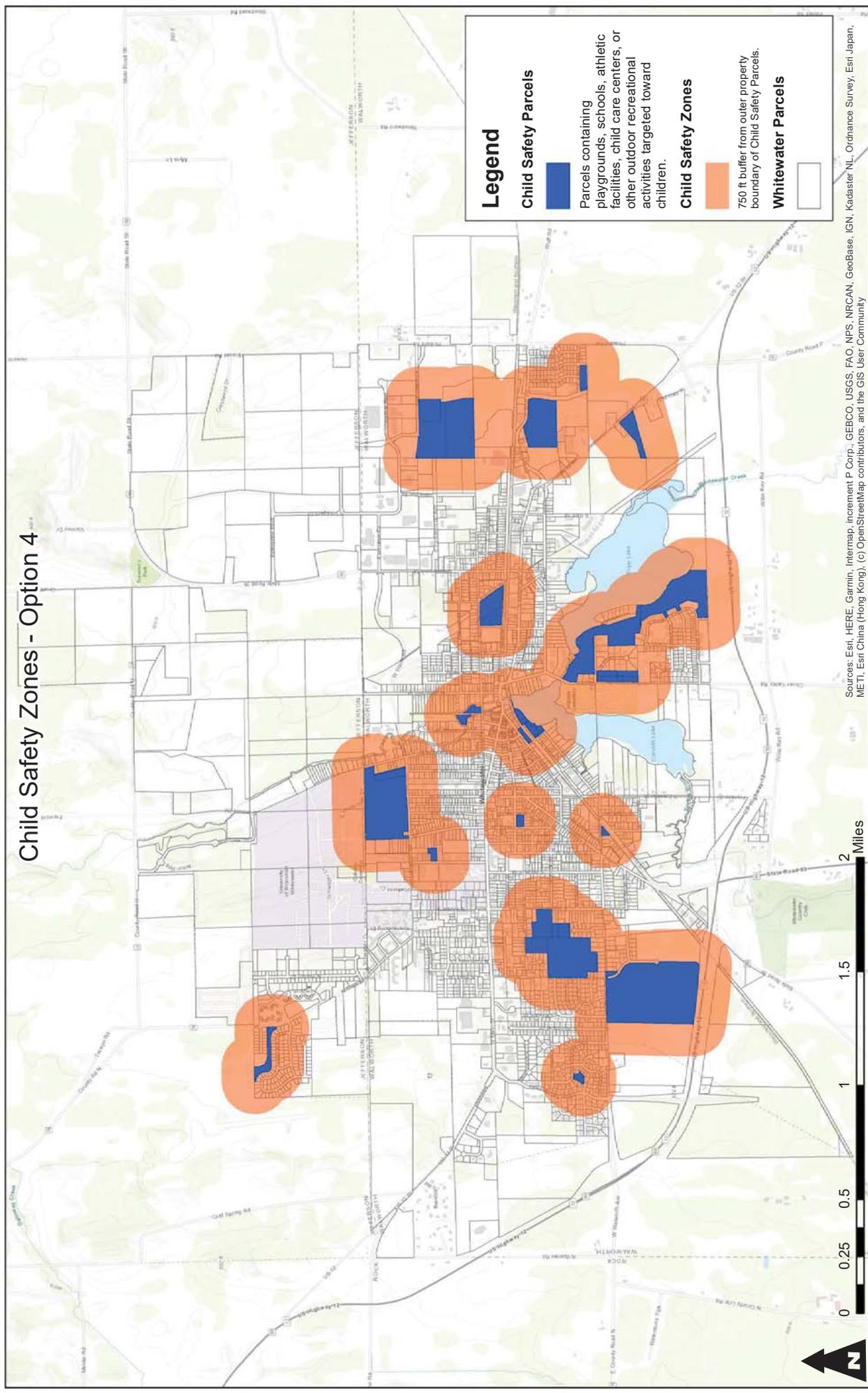




# Child Safety Zones Including All Trails



# Child Safety Zones - Option 4



## Legend

### Child Safety Parcels

Parcels containing playgrounds, schools, athletic facilities, child care centers, or other outdoor recreational activities targeted toward children.

### Child Safety Zones

750 ft buffer from outer property boundary of Child Safety Parcels.

### Whitewater Parcels

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MEIT, Esri China (Hong Kong), (C)OpenStreetMap contributors, and the GIS User Community



## Council Agenda Item

Meeting Date:	Tuesday, October 5, 2021
Agenda Item:	Ordinance Amending Chapter 2.56 Library Board
Staff Contact (name, email, phone):	Cameron Clapper, <a href="mailto:cclapper@whitewater-wi.gov">cclapper@whitewater-wi.gov</a> , 262.473.0104

### BACKGROUND

(Enter the who, what when, where, why)

A recent review of state statutes regarding library boards confirmed that Whitewater's ordinance needed revision. One key area within the ordinance in need of an update was related to residency requirements for library board members.

The proposed amendment ties the requirements for board composition, duties, and authority to the state statute.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The common council approved the ordinance ad first reading on September 21, 2021.

### FINANCIAL IMPACT

(If none, state N/A)

None.

### STAFF RECOMMENDATION

Staff recommends adoption of the ordinance amendment as proposed.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

- Ordinance Amending 2.56 Library Board
- Wisconsin Statutes 43.54 and 58

ORDINANCE No. \_\_\_\_\_  
AN ORDINANCE AMENDING SUBSECTION 2.56.010  
LIBRARY BOARD - MEMBERSHIP

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 2.56 Subsection 2.56.010 is hereby amended to read as follows:

2.56.010 – Membership.

- (a) The composition of the Library Board shall be as provided in the provisions of Wis. Stats. § 43.54.
- (b) The power, authority and duties of the library board shall be as prescribed by Wis. Stats. § 43.58.

Ordinance introduced by Council Member \_\_\_\_\_, who moved its adoption.

Seconded by Council Member \_\_\_\_\_.

AYES:  
NOES:  
ABSENT:  
ADOPTED:

\_\_\_\_\_  
Cameron Clapper, City Manager

\_\_\_\_\_  
Michele R. Smith, City Clerk

superintendent a decision of the county library board or the county board of supervisors that disapproves the participation by the town in a joint library with a municipality located in another county. The state superintendent shall hold a public hearing on the appeal within 60 days after receiving notice of the appeal. The state superintendent shall publish a class 1 notice under ch. 985 of the hearing and shall also provide notice of the hearing to the town board, the county board of supervisors and the county library board. The state superintendent shall decide the appeal within 30 days after the adjournment of the public hearing.

(b) Any city or village that is entirely located in a county that operates and maintains a consolidated public library for the county under s. 43.57, and that desires to establish a new public library or participate in a joint library under s. 43.53, shall, in addition to the requirement under sub. (1), obtain the approval of the county library board, if one exists, and the county board of supervisors before final action is taken. The county library board and the county board of supervisors shall render decisions within 90 days of the request being received. The common council or village board may appeal to the state superintendent a decision of the county library board or the county board of supervisors that disapproves the participation by the city or village in a joint library with a municipality located in another county. The state superintendent shall hold a public hearing on the appeal within 60 days after receiving notice of the appeal. The state superintendent shall publish a class 1 notice under ch. 985 of the hearing and shall also provide notice of the hearing to the common council or village board, the county board of supervisors, and the county library board. The state superintendent shall decide the appeal within 30 days after the adjournment of the public hearing.

(2) Every public library shall be free for the use of the inhabitants of the municipality by which it is established and maintained, subject to such reasonable regulations as the library board prescribes in order to render its use most beneficial to the greatest number. The library board may exclude from the use of the public library all persons who willfully violate such regulations.

(3) Any municipality may purchase or acquire one or more sites, erect one or more buildings and equip the same for a public library or any library already established; or may adopt, take over and acquire any library already established, by consent of the authorities controlling the same.

(4) A municipal library may contract with library organizations within this state or in adjacent states to provide or receive library services.

**History:** 1971 c. 152 s. 16; 1977 c. 418; 1985 a. 177 ss. 26 to 28, 47; 1989 a. 286; 1997 a. 150; 2005 a. 226, 420.

A library can charge user fees for any services that fall outside of a library's inherent information-providing functions; core "library services" must be provided free of charge to the inhabitants of the municipality. 73 Atty. Gen. 86.

Municipal libraries may not charge a fee for lending video cassettes that are part of a reasonable permanent collection, but may charge for lending additional copies. Municipal libraries may not charge a fee for online searching of bibliographic or informational databases. 78 Atty. Gen. 163.

**43.53 Joint libraries.** (1) Joint libraries may be created by any 2 or more municipalities or by a county and one or more municipalities located in whole or in part in the county, by appropriate agreement of their governing bodies. Section 43.52 applies to joint libraries.

(2) Joint library agreements under sub. (1) shall contain provisions necessary to establish a library board under s. 43.54, including a procedure for adjusting the membership of the board to ensure that it remains representative of the populations of the participating municipalities, as shown by the most recent federal census, under s. 43.54 (1m) (a) 1.; perform the duties under s. 43.58; and own and operate the physical facilities. A joint library agreement shall also do all of the following:

(a) Name one of the participants as the library's fiscal agent, who is responsible for the payroll, benefit administration, insurance, and financial record keeping and auditing for the library. The participant's costs of providing the services under this para-

graph count toward the financial support required of the participant under s. 43.15 (4) (b) 2.

(b) Include a procedure for the distribution of a joint library's assets and liabilities if the joint library is dissolved.

(3) A joint library may not be established unless it includes at least one municipality with a public library established before May 8, 1990.

**History:** 1971 c. 152 s. 19; Stats. 1971 s. 43.56; 1985 a. 177 ss. 33, 34; Stats. 1985 s. 43.53; 1989 a. 286; 1995 a. 270; 2005 a. 420; 2011 a. 32.

**43.54 Municipal library board composition.** (1) (a) Each public library established under s. 43.52 shall be administered by a library board composed in each city of the 2nd or 3rd class or school district of 9 members, in each city of the 4th class of 7 members and in each village, town, tribal government or tribal association of 5 members. Two additional members may be appointed to a library board for a village, town, tribal government or tribal association so that the board has 7 members. Members shall be residents of the municipality, except that not more than 2 members may be residents of other municipalities. Members shall be appointed by the mayor, village president, town chairperson, tribal chairperson or school board chairperson, respectively, with the approval of the municipal governing body. Up to 5 additional members may be appointed under s. 43.60 (3).

(am) Each public library established in a 1st class city shall be administered by a library board consisting of the president of the board of school directors or his or her designee, the superintendent of schools or his or her designee, a member of the county board of supervisors who resides in the county, 3 alderpersons and 6 public members. The county board member shall be appointed by the county executive or county administrator and confirmed by the county board for a 4-year term commencing on May 1. The 3 alderpersons shall be appointed by the mayor on the 3rd Tuesday in April from among those alderpersons serving 4-year terms and shall serve on the library board during their aldermanic terms. The 6 public members shall be residents of the city. Five of the public members shall be appointed by the mayor on the 3rd Tuesday in April to staggered 4-year terms. One of the public members appointed by the mayor under this paragraph shall be designated by the mayor as his or her representative on the board. One public member shall be appointed by the president of the common council on the 3rd Tuesday in April for a 4-year term. The public member appointed by the president of the common council under this paragraph shall be designated by the president of the common council as his or her representative on the board.

(b) Upon their first appointment, the members shall be divided as nearly as practicable into 3 equal groups to serve for 2-, 3- and 4-year terms, respectively. Thereafter, each regular appointment shall be for a term of 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

(c) The appointing authority shall appoint as one of the members a school district administrator, or the administrator's representative, to represent the public school district or districts in which the public library is located. Not more than one member of the municipal governing body shall at any one time be a member of the library board.

(d) No compensation shall be paid to the members of a library board for their services, except as follows:

1. Members may be reimbursed for their actual and necessary expenses incurred in performing duties outside the municipality if so authorized by the library board.

2. Members may receive per diem, mileage and other necessary expenses incurred in performing their duties if so authorized by the library board and the municipal governing body.

(e) A majority of the membership of a library board constitutes a quorum, but any such board may, by regulation, provide that 3 or more members thereof shall constitute a quorum. For library boards organized under par. (am), a majority of those seats on the board that are currently filled constitutes a quorum.

**43.54 LIBRARIES**

Updated 19–20 Wis. Stats. 10

**(1m)** (a) Boards appointed for joint libraries under s. 43.53 shall:

1. Consist of 7 to 11 members and be representative of the populations of the participating municipalities.

2. Be appointed by the head of the municipal governing body of each participating municipality and county board chairperson of the participating county.

(b) Subsections (1) (b) to (e) and (2) apply to joint library boards.

**(2)** As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 60 days after the beginning of terms, the members of the library board shall organize by the election, from among their number, of a president and such other officers as they deem necessary.

**(3)** In any city of the 2nd or 3rd class, the common council may, by a two-thirds vote, provide for the reduction of the number of appointive members of the library board to 7. Thereupon, whenever a term expires or a vacancy occurs, no appointment shall be made until the number of such members has been so reduced, whereupon the remaining members shall be by lot divided by the common council into 3 classes, 3 to serve for 3 years, 2 to serve for 2 years and 2 to serve for one year, respectively, from the date of such completed reduction, and thereafter each regular appointment shall be for a term of 3 years.

**History:** 1971 c. 152 ss. 19, 20; 1977 c. 418; 1981 c. 197; 1983 a. 27, 192, 214, 538; 1985 a. 177; 1987 a. 286; 1991 a. 269, 316; 1993 a. 184; 1997 a. 150; 2005 a. 226; 2009 a. 207.

**43.57 Consolidated county libraries and county library services.** **(1) CONSOLIDATED COUNTY LIBRARIES.** (a) A county board may establish and maintain a consolidated public library for the county, and may for such purpose adopt, take over and acquire any libraries already established, by consent of the authorities controlling those libraries.

(b) If it is consistent with the terms thereof, a gift, bequest or endowment to a public library becoming a part of a consolidated county library may be taken over by the county library board. The county library board shall maintain the gift, bequest or endowment for the benefit of the library to which it was given.

(c) A consolidated county library may become part of a federated multicounty system organized under s. 43.19.

(d) A consolidated county library may contract with library organizations within this state or in adjacent states to provide or receive library services.

**(2) JOINT LIBRARIES.** A county board may authorize the formation of a joint library under s. 43.53 and may participate in a joint library board under s. 43.54.

**(2m) TRIBAL COLLEGE-COUNTY JOINT LIBRARIES.** (a) A county board may enter into an agreement with a tribal college to maintain a public library for the county.

(b) An agreement under par. (a) shall require all of the following:

1. That the tribal college annually provide to the county board an accounting of the expenditure of any appropriations received from the county.

2. Except as provided in this subdivision, that the tribal college make the library free for the use of the inhabitants of the county. The tribal college may prescribe reasonable regulations for the use of the library so as to render the use of the library most beneficial to the greatest number of persons. The tribal college may exclude from the use of the library all persons who willfully violate the regulations.

(c) Sections 43.52 to 43.54 do not apply to a tribal college-county joint library under this subsection.

**(3) COUNTY LIBRARY SERVICES.** A county board may establish and maintain a county library service to serve the residents of the county who do not live in municipalities that have established libraries under s. 43.52 or 43.53 or to improve the library services

of municipal libraries established under s. 43.52 or 43.53. The county library service may operate a library or library service program or may contract with library organizations within this state or in adjacent states for services.

**(4) BOARD APPOINTMENT.** (a) In a county with a consolidated county library under sub. (1), the county board chairperson shall, with the approval of the county board, appoint a 7-member or 9-member county library board.

(b) In a county operating a county library service under sub. (3), the county board chairperson shall, with the approval of the county board, appoint a 7-member library board.

(bm) 1. In a county with a tribal college-county joint library under sub. (2m), there shall be a 3-member county library board. One member shall be appointed by the tribal college, one member shall be appointed by the American Indian tribe or band that controls the college, and one member shall be appointed by the county board.

2. A board under this paragraph shall have any powers provided in the agreement under sub. (2m), shall advise the library on any matter related to library service, and shall, within 60 days of the conclusion of the fiscal year of the county, provide the report under s. 43.58 (6) to the county and the division.

(c) Boards appointed under pars. (a) and (b) shall include at least one school district administrator of a school district located in whole or in part in the county, or that school district administrator's designee, and one or 2 county board supervisors. Boards appointed under par. (b) shall include, in addition, representatives of existing library boards under s. 43.54 and persons residing in municipalities not served by libraries.

(d) Boards appointed under pars. (a) and (b) have the powers and duties of a library board under s. 43.58.

**(5) TERMS OF OFFICE, COMPENSATION, OFFICERS, DUTIES.** (a) 1. Upon the initial establishment of a board under sub. (4) (a) or (b), the members shall be divided as nearly as practicable in 3 equal groups to serve for 2-, 3- and 4-year terms, respectively, following their appointment. Thereafter, terms shall be for 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

2. Upon the initial establishment of a board under sub. (4) (bm), the member appointed by the county board shall serve for a 2-year term, the member appointed by the American Indian tribe or band shall serve for a 3-year term, and the member appointed by the tribal college shall serve for a 4-year term. Thereafter, terms shall be for 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

(b) No compensation shall be paid to the members of a board under sub. (4) (a) to (bm) for their services, except as follows:

1. Members may be reimbursed for their actual and necessary expenses incurred in performing their duties if so authorized by the board.

2. Members may receive per diem, mileage and other necessary expenses incurred in performing their duties if so authorized by the board and the county board.

(c) A majority of the membership of a board under sub. (4) (a) to (bm) constitutes a quorum, but any such board may, by resolution, provide that 3 or more members constitute a quorum.

(d) As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 30 days after the beginning of terms, the members of the board shall organize by the election, from among their number, of a president and such other officers as they deem necessary.

(e) Section 43.52 (2) applies to consolidated county libraries and county library services.

(f) A library organized under this section may participate in a public library system subject to s. 43.15.

**(6) GIFTS AND GRANTS.** Any county may receive, by bequest or gift, property for the purpose of establishing a public library for the county and may enter into an agreement to maintain a public

library in consideration thereof, and shall be bound to faithfully perform such agreement. In such case the library board appointed under sub. (4) or, in the absence of a library board, the county board may properly administer the same.

**History:** 1971 c. 152 s. 25; Stats. 1971 s. 43.57; 1981 c. 282 s. 47; 1985 a. 177 ss. 35 to 41, 51; 1989 a. 286; 1993 a. 241; 1995 a. 354; 2015 a. 306; s. 35.17 correction in (6).

**43.58 Powers and duties.** (1) The library board shall have exclusive control of the expenditure of all moneys collected, donated or appropriated for the library fund, and of the purchase of a site and the erection of the library building whenever authorized. The library board also shall have exclusive charge, control and custody of all lands, buildings, money or other property devised, bequeathed, given or granted to, or otherwise acquired or leased by, the municipality for library purposes.

(2) (a) The library board shall audit and approve all expenditures of the public library and forward the bills or vouchers covering the expenditures, setting forth the name of each claimant or payee, the amount of each expenditure, and the purpose for which it was expended, to the appropriate municipal or county financial officer or, in the case of a school district, the school district clerk. The library board shall include a statement, signed by the library board secretary or other designee of the library board, that the expenditure has been incurred and that the library board has audited and approved the expenditure. The appropriate municipal, county, or school district official shall then pay the bill as others are paid.

(b) Notwithstanding par. (a), regular wages or salary or other recurring payments, authorized by the library board and verified by the appropriate library official, may be paid by the appropriate municipal, county, or school district official by the date due or, in the case of salaries, by the regular pay day. The library board shall audit and approve any such payment at its next regular meeting.

(3) Any person having a claim or demand against the municipality or county growing out of any act or omission of the library board shall file with the library board a written statement thereof. If the claim or demand or any part thereof is disallowed, the claimant may bring an action against the municipality or county.

(4) Notwithstanding ss. 59.17 (2) (br) and 59.18 (2) (b), the library board shall supervise the administration of the public library and shall appoint a librarian, who shall appoint such other assistants and employees as the library board deems necessary, and prescribe their duties and compensation.

(5) The library board may employ competent persons to deliver lectures upon scientific, literary, historical or educational subjects; and may cooperate with the University of Wisconsin System, technical college district boards, the historical society, the department, cooperative educational service agencies, school boards and other educational institutions to secure such lectures or to foster and encourage by other means the wider use of books and other resource, reference and educational materials upon scientific, historical, economic, literary, educational and other useful subjects.

(6) (a) Within 60 days after the conclusion of the fiscal year of the municipality or county in which the public library is located, the library board, including a library board under s. 43.57 (4) (bm), shall make a report to the division and to its governing body or, for a library board under s. 43.57 (4) (bm), the county board of the county in which the library is located. The report shall state the condition of the library board's trust and the various sums of money received for the use of the public library during the year, specifying separately the amounts received from appropriations, from the income of trust funds, from rentals and other revenues of the public library and from other sources. The report shall state the condition of all funds in the library board's control and shall state in detail the disbursements on account of the public library during that fiscal year.

(b) The report to the division shall include data concerning library materials, facilities, personnel, operations and such other information as the division requests.

(c) The report to the division shall contain a statement by the library board indicating whether the public library system in which the library participated during the year of the report did or did not provide effective leadership and adequately meet the needs of the library and an explanation of why the library board believes so. The division shall design the form of the statement so that it may be removed from the report and forwarded to the division before it is sent to the public library system.

(7) The library board may receive, manage and dispose of gifts and donations as follows:

(a) All persons wishing to make donations of property for the benefit of a public library may vest the title thereto in the library board, to be held and controlled by the board, when accepted, according to the terms of the deed of gift, devise or bequest. As to such property the board shall be deemed special trustees.

(b) 1. In this paragraph, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

2. If a gift, bequest, or endowment is made to any public library, the library board may pay or transfer the gift, bequest, or endowment, or its proceeds, to the treasurer of the municipality or county in which the public library is situated; may entrust the gift, bequest, or endowment to a public depository under ch. 34; may pay or transfer the gift, bequest, or endowment to the library board's financial secretary; or may, subject to subd. 3., pay or transfer the gift, bequest, or endowment to a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, the purpose of which is providing financial or material support to the public library or to a community foundation. A payment or transfer of a gift, bequest, or endowment by a library board to a charitable organization described in this paragraph made prior to March 19, 2008, is not invalid as lacking statutory authority to make the payment or transfer. If the library board pays or transfers the gift, bequest, or endowment to the financial secretary, the financial secretary may invest the gift, bequest, or endowment as permitted under s. 66.0603 (1m) or 112.11 (3); or may delegate investment authority for the gift, bequest, or endowment as permitted under s. 66.0603 (2) or 112.11 (5). The financial secretary shall hold office only during membership on the library board and shall be elected annually at the same time and in the same manner as the other officers of the library board.

3. A library board may pay or transfer a gift, bequest, or endowment to a charitable organization described in subd. 2. or to a community foundation only if the library board and the charitable organization or the community foundation agree, in writing and at the time of the payment or transfer of the gift, bequest, or endowment, to each of the following:

a. The charitable organization or the community foundation agrees to make disbursements from and of the gift, bequest, or endowment to the library board upon the written request of the library board.

b. Subject to subd. 3. bm., the library board retains control over the manner in which any disbursement made under subd. 3. a. is used.

bm. The library board's use of any disbursement made under subd. 3. a. shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the

library board and the charitable organization or community foundation.

c. The library board exercises its rights over the use of each disbursement made under subd. 3. a. in accordance with the law applicable to trust investments and the provisions of this chapter.

(c) If any such treasurer or financial secretary holds any property belonging to the public library, the library board shall require a bond from the treasurer or financial secretary to the library board in such sum, not less than the amount of such property so held by him or her, and with such sureties as the library board requires. The bond shall be conditioned in substantially the same form as the ordinary bond required from the treasurer of the municipality or county, with the necessary changes.

(d) The treasurer or financial secretary shall make an annual report to the library board showing in detail the amount, investment, income and disbursements from the trust funds in his or her charge. Such report shall also be appended to the annual report of the library board under sub. (6).

(e) In the case of a gift for a library building, the library board of the municipality shall have the exclusive right to select and contract for the purchase of a site.

(8) Except as provided under sub. (6), this section does not apply to a library board under s. 43.57 (4) (bm).

**History:** 1971 c. 152 ss. 10, 20; 1977 c. 26, 418; 1985 a. 176; 1985 a. 177 ss. 42, 43, 48 to 50, 52; 1985 a. 225, 332; 1987 a. 252; 1993 a. 399; 1995 a. 201, 264; 1997 a. 150; 2005 a. 226; 2007 a. 61; 2009 a. 33; 2011 a. 163; 2015 a. 306; s. 35.17 correction in (7) (d).

Municipal libraries are a matter of statewide concern. Accordingly, home rule provisions will not justify local departures from the provisions of ch. 43. 76 Atty. Gen. 203.

#### 43.60 County appointments to municipal and joint public library boards. (3)

(a) A county chairperson, with the approval of the county board, may appoint from among the residents of the county additional members to the library board of a public library of a municipality located in whole or in part in the county, for a term of 3 years from the May 1 following the appointment, and thereafter for a term of 3 years, as follows:

1. If the annual sum appropriated by the county to the public library is equal to at least one-sixth, but less than one-third, of the annual sum appropriated to the public library by any municipality in which the public library is located during the preceding fiscal year, one additional member.

2. If the annual sum appropriated by the county to the public library is equal to at least one-third, but less than one-half, of the annual sum appropriated to the public library by any municipality in which the public library is located, 2 additional members.

3. If the annual sum appropriated by the county to the public library is equal to at least one-half, but less than two-thirds, of the annual sum appropriated to the public library by any municipality in which the public library is located, 3 additional members.

4. If the annual sum appropriated by the county to the public library is equal to at least two-thirds, but less than the annual sum appropriated to the public library by any municipality in which the public library is located, 4 additional members.

5. If the annual sum appropriated by the county to the public library is equal to at least the annual sum appropriated to the public library by any municipality in which the public library is located, 5 additional members.

(b) For a joint public library of 2 or more municipalities, the “annual sum appropriated to the public library by any municipality in which the public library is located” under par. (a) is the total sum appropriated by all of the municipalities participating in the joint library.

(c) A county chairperson may appoint a county supervisor to serve as a member of a library board of a public library of a municipality under par. (a), but no more than one county supervisor so appointed may serve on the library board at the same time.

(4) If an additional member appointed to a library board under sub. (3) (a) loses the status upon which the appointment was

based, he or she ceases to be a member of the library board effective on the following May 1.

**History:** 1971 c. 152 s. 23; Stats. 1971 s. 43.60; 1981 c. 197; 1985 a. 177; 1989 a. 56; 1991 a. 269; 2005 a. 226.

**43.64 County tax. (1)** The county board of a county expending money for public library service to its inhabitants may levy a tax to provide funds for such service and shall include any amount of tax under this subsection in the amount of taxes determined to be levied under s. 70.62 (1).

(2) (a) In this subsection, “library fund” means the funds raised by the city, village, town or school district by tax levy or appropriation under s. 43.52 (1).

(b) Except as provided in sub. (2m), any city, town, village or school district in a county levying a tax for public library service under sub. (1) shall, upon written application to the county board of the county, be exempted from the tax levy, if the city, town, village or school district making the application levies a tax for public library service and appropriates and expends for a library fund during the year for which the county tax levy is made a sum at least equal to an amount calculated as follows:

1. Divide the amount of tax levied by the county for public library service under sub. (1) in the prior year, less the amount levied for public library capital expenditures, by the equalized valuation of property in that area of the county that was subject to the county property tax levy for public library services in the prior year.

2. Multiply the amount determined under subd. 1. by the equalized valuation of property in the city, village, town or school district for the current year.

(c) Notwithstanding sub. (2m), any city, village, town, or school district in a county levying a tax for public library service under sub. (1) is exempt from the tax levy if all of the following apply:

1. The city, village, town, or school district is included in a joint library under s. 43.53.

2. The city, village, town, or school district levies a tax for public library service, less the amount levied for public library capital expenditures, and appropriates and spends for a library fund during the year for which the county tax levy is made an amount that is not less than the average of the previous 3 years.

(2m) No city, village, town or school district is exempt from the tax levy under sub. (2) for any year if, by September 1 of the year preceding the year for which the tax is levied, the county board determines that the public library of the city, village, town or school district that is a member of the public library system has not complied with standards approved under s. 43.11 (3) (d) and (e).

(3) Each city, town, village or school district participating in a joint library under s. 43.53 shall be treated individually in determining its eligibility for tax exemption under sub. (2).

**History:** 1971 c. 152 s. 16; 1977 c. 418; 1981 c. 20; 1983 a. 27; 1985 a. 177; 1997 a. 150; 2005 a. 226, 420; 2013 a. 20.

A municipality having a traveling library service within its municipal limits could raise a library fund for that service and be exempted from the county tax by meeting the requirement of s. 43.25 (4), 1969 stats. [now sub. (2)]. 60 Atty. Gen. 389.

A town, city, or village that does not maintain a public library, but makes contributions to a nearby public library, cannot be exempted from the county library tax levy under sub. (2). 65 Atty. Gen. 182.

A municipality, otherwise qualified, is entitled to an exemption under sub. (2) when the county has not acted to levy a tax specifically designated as a county library tax but does finance money expended for public library services to its inhabitants by a general tax levy. 72 Atty. Gen. 190.

**43.70 Common school fund. (1)** No later than October 15 of each year, each school district administrator shall certify to the state superintendent, on forms provided by the state superintendent, a report of the number of persons residing in the school district on the preceding June 30, as reported under s. 120.18 (1) (a).

(2) Annually by January 10, the state superintendent shall apportion the amount that is estimated to be appropriated under s. 20.255 (2) (s) in the current school year to the school districts in



## Council Agenda Item

Meeting Date:	Tuesday, October 5, 2021
Agenda Item:	Proposed 2022-23 Biennial Budget Overview
Staff Contact (name, email, phone):	Cameron Clapper, <a href="mailto:cclapper@whitewater-wi.gov">cclapper@whitewater-wi.gov</a> , 262.473.0104 Steve Hatton, <a href="mailto:shatton@whitewater-wi.gov">shatton@whitewater-wi.gov</a> , 262.473.1380

### BACKGROUND

(Enter the who, what when, where, why)

The city manager and the finance and administrative services director will present the common council with a hard copy of the proposed budget for the 2022-23 biennium. The document will contain budget numbers and a majority of the narrative for municipal operations.

The common council will also receive a PowerPoint presentation highlighting key attributes of the proposed budget.

Following delivery of the budget document and the overview presentation, the finance committee will begin sifting through the proposed budget over a series of meetings in October.

City staff will provide the common council with a final budget in November after incorporating all revisions recommended by the finance committee.

Finance committee meetings are open to the public and will commence the evening of October 7, 2021.

Questions regarding the budget document or the budget process can be directed to Cameron Clapper or Steve Hatton. Contact information is available in the header of this memo.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

### FINANCIAL IMPACT

(If none, state N/A)

N/A

### STAFF RECOMMENDATION

This is a delivery of the budget; no actions are required at this time.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

Materials will be delivered at the meeting.



## Council Agenda Item

Meeting Date:	October 5, 2021
Agenda Item:	Strand Task Order 21-07, TID Boundary Descriptions
Staff Contact (name, email, phone):	Brad Marquardt, <a href="mailto:bmarquardt@whitewater-wi.gov">bmarquardt@whitewater-wi.gov</a> , 262-473-0139 Steve Hatton, <a href="mailto:shatton@whitewater-wi.gov">shatton@whitewater-wi.gov</a> , 262-473-1380

### BACKGROUND

(Enter the who, what when, where, why)

The Council recently approved the creation of five new TIDs. The last step in recording these TIDs is to create a metes and bounds boundary descriptions for each TID. The descriptions need to be sent to the Department of Administration by the end of October, 2021.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Council approved the creation of TIDs 10, 11, 12, 13 and 14 in August, 2021.

### FINANCIAL IMPACT

(If none, state N/A)

The proposed cost, to provide boundary descriptions for all five TIDs, is on an hourly rate basis plus expenses not to exceed \$17,500.

### STAFF RECOMMENDATION

Staff recommends approval of Strand's Task Order 21-07.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Strand Task Order 21-07



OWNER REVIEW

DRAFT STRAND ASSOCIATES

Strand Associates, Inc.\*  
910 West Wingra Drive  
Madison, WI 53715  
(P) 608.251.4843

Task Order No. 21-07  
City of Whitewater, Wisconsin (OWNER)  
and Strand Associates, Inc.\* (ENGINEER)  
Pursuant to Agreement for Technical Services dated December 30, 2020

**Project Information**

Services Name: Tax Incremental District (TID) Boundary Descriptions

Services Description: Preparation of metes and bounds descriptions for the boundaries of five new TIDs created by OWNER.

**Scope of Services**

ENGINEER will provide the following services to OWNER:

1. Review geographical information system (GIS) shape files provided by OWNER for each TID. Submit a list of questions and clarifications regarding TID boundaries to OWNER for review and discussion. Revise shape field boundaries in accordance with OWNER review comments.
2. Convert GIS shape files to CAD format.
3. Prepare metes and bounds description for each TID. Descriptions will be referenced to parcel mapping available from the Walworth County and Jefferson County GIS websites. Descriptions will be referenced to the Public Land Survey System but not the plat name, lot number, or certified survey map number.
4. Prepare a GIS-based map with the metes and bounds courses for each TID.
5. Provide metes and bounds descriptions in Microsoft Word and portable document format (PDF). Provide maps in shape and PDF files.

**Compensation**

OWNER shall compensate ENGINEER for Services under this Task Order on an hourly rate basis plus expenses an estimated fee not to exceed \$17,500.

**Schedule**

Services will begin upon execution of this Task Order, which is anticipated the week of October 11, 2021. Services are scheduled for completion on October 31, 2021.

**TASK ORDER AUTHORIZATION AND ACCEPTANCE:**

ENGINEER:

STRAND ASSOCIATES, INC.\*

OWNER:

CITY OF WHITEWATER

DRAFT

Joseph M. Bunker  
Corporate Secretary

Date

NOT FOR SIGNATURE  
CITY OF WHITEWATER  
Signature  
Date  
City Manager

MAF-sj6k7W4UJ0uomenu5AgamataWIWhitewater\_City\_of(WI)IATS 20201002021140770121-07.docx



## Council Agenda Item

Meeting Date:	Tuesday, October 5, 2021
Agenda Item:	CDBG Close Program Loan MOU between the CDA & Water Utility
Staff Contact (name, email, phone):	Cameron Clapper, <a href="mailto:cclapper@whitewater-wi.gov">cclapper@whitewater-wi.gov</a> , 262.473.0104

### BACKGROUND

(Enter the who, what when, where, why)

Presented for approval by the common council is a memorandum of understanding (MOU) between the CDA and the water utility for use of grant funds obtained through the Wisconsin CDBG-CLOSE program.

The MOU sets forth all understandings and expectations regarding use of CDBG-CLOSE grant dollars for the water tower project currently underway. The MOU further articulates the obligation of the water utility to then pay back the total CDBG-CLOSE grant amount less any dollars used for grant administration costs up to \$7,500.00.

Notable below is the length of time between the original approval and the approval of revisions. Because the CDBG-CLOSE application required action before January 31, 2021 the MOU was approved by the CDA on January 28, 2021, prior to the creation of new TIDs. The city manager chose to delay bringing the MOU further until new TIDs had been created. New TIDs were finalized on August 3, 2021.

In September, the question of whether or not CDBG-CLOSE grant application administration costs, paid up front by the water utility, should be included in the amount due to the CDA as part of the agreement. The MOU was further retained from the common council until the CDA could review and act on the city manager's request for MOU revisions. The CDA acted on September 23 to split grant administration costs between the water utility and the CDA. This action is reflected in the current draft presented for common council approval.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

January 28, 2021 - The CDA approved an MOU between the CDA and the water utility.

September 23, 2021 – The CDA approved revisions to the MOU, including the addition of the \$7,500.00 for grant administration and updating the original grant estimate of \$892,000 to the actual \$859,366.00.

### FINANCIAL IMPACT

(If none, state N/A)

The impact of this agreement if between municipal funds.

### STAFF RECOMMENDATION

Staff recommends approval contingent on the update of Exhibit A to reflect the \$7,500.00 reduction in the repayment obligation.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

- Draft MOU between the CDA and Water Utility with Exhibit A

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COMMUNITY DEVELOPMENT  
AUTHORITY OF THE CITY OF WHITEWATER, WISCONSIN AND THE WHITEWATER MUNICIPAL  
WATER UTILITY OF THE CITY OF WHITEWATER CONCERNING USE AND REPAYMENT OF  
COMMUNITY DEVELOPMENT BLOCK GRANT CLOSEOUT PROGRAM DOLLARS**

This Memorandum of Understanding (the "Agreement") executed by and between the Community Development Authority of the City of Whitewater, Wisconsin (the "CDA") and the Whitewater Municipal Water Utility of the City of Whitewater, Wisconsin (the "Water Utility") for purposes of confirming the mutual understanding of the CDA and the Water Utility with respect to the matter addressed below.

The CDA has an opportunity to complete an eligible Community Development Block Grant ("CDBG") Project as provided under by the CDBG Closeout Program defined by the State of Wisconsin Department of Administration (the "DOA"). The CDA Board of Directors has unanimously agreed to utilize the Water Tower Project as the CDBG project. As the Water Utility would otherwise have to borrow an equal amount of funding from public debt markets absent the CDA direction of this grant funding, the Water Utility agrees to reimburse the CDA for the value of the CDBG grant funding dedicated to the Water Utility. The reimbursement will be recorded as a loan advance to the Water Utility by the CDA. The amount of the reimbursement will match the value of the CDBG grant, \$859,366, less \$7,500.00 for grant administration costs. Thus the loan will be \$859,366, but the Water Utility will only be required to pay back \$851,866 as part of this MOU.

**Article 1 – Term.**

**1.01 Initial Term.** The initial term of this Agreement shall be for eight (8) years beginning June 15, 2022, unless sooner repaid in full pursuant to the terms of this Agreement.

**1.02 Extension of Repayment.** This Agreement shall automatically renew on a yearly basis until the balance owed the CDA is paid in full.

**Article 2 – Commitments.**

**2.01 CDA Board Commitments.** The CDA Board hereby unanimously grants to the Water Utility the exclusive use of CDBG Closeout Program funds equal to \$859,366.00, to be used for the construction of a new water tower. The Water Utility shall adhere to all DOA CDBG Closeout regulations, rules, policies and meet all deadlines as required by the DOA.

**2.02 Water Utility Commitments.** The Water Utility hereby agrees to repay the CDBG Closeout program dollars to the CDA as follows: Semi-annual payments of principal beginning on December 15, 2022 per attached schedule (Exhibit A). The loan by the CDA to the Water utility is to be interest-free.

**Article 3 – Termination.** This Agreement may only be terminated upon repayment in full by the Water Utility to the CDA. The repayment of project dollars will be made by January 1, 2030.

**Article 4 – Governing Law.** The laws of the State of Wisconsin shall govern the interpretation and enforcement of this Agreement.

**Article 5 - Successors and Assigns.** Except as expressly granted herein, no party shall assign its rights or obligations under the Agreement to any other party without a mutually-written addendum executed by all parties to this Agreement.

**Article 6 – Amendment.** This Agreement shall not be amended, changed, modified or altered without the written consent of all parties hereto, and no modification, alteration or amendment to this Agreement shall be binding until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement. Any proposed amendment to this Agreement shall be provided in writing, along with a memorandum in support of the amendment, to all parties to this agreement fifteen (15) days prior to final action on the amendment by any party.

**Article 7 – Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were on the same instrument.

**Article 8 – Severability.** If any specific term or provision herein is adjudicated to be unenforceable against either party, such decision shall not automatically render this entire Agreement null or void. Rather, the unenforceability of one or more terms, clauses or paragraphs in this Agreement shall not affect the enforceability of the remaining terms herein.

**Article 9 -Third Party Beneficiaries. Third Party Beneficiaries.** This Agreement is entered into for the sole and exclusive benefit of the parties hereto. No third party shall have, obtain, or derive from this Agreement any rights or other benefits or interests under any laws or otherwise, except as specifically stated herein.

**Article 10 - Exculpatory Provision.** The parties to this Agreement expressly acknowledge and agree that, anything herein to the contrary notwithstanding, no officer, director, employee, agent, or officials (elected or appointed) of any party hereto shall have any personal liability or obligation arising out of this Agreement, and no party hereto shall make any claims to the contrary.

**Article 11 - Rules of Construct/Conduct.** The parties to this Agreement acknowledge and agree that the terms herein were negotiated in good faith and represent the intent of the parties. In the course of negotiations, each party has been represented by a practicing attorney, and that accordingly rules of interpretation that signify that an agreement shall be construed against the drafter shall not apply. In addition, the parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in the spirit of cooperation consistent with the intent of this Agreement with the aim of benefiting the entire Whitewater area community and the University of Wisconsin-Whitewater.

By signing below, the parties hereto represent that they have full authority to execute this Agreement and thereby bind their respective entities to the terms of this Agreement. Upon execution, this Agreement shall be in full force and effect as stated herein.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

**COMMUNITY DEVELOPMENT AUTHORITY OF  
THE CITY OF WHITEWATER, WISCONSIN**

**WHITEWATER MUNICIPAL WATER UTILITY,  
WHITEWATER, WISCONSIN**

By: \_\_\_\_\_  
Patrick Singer, Chairman

By: \_\_\_\_\_  
Cameron Clapper, City Manager

Attest: \_\_\_\_\_  
Cathy Anderson, Executive Director

Exhibit A

CDA Water Tower Advance

CDA Repayment			
6/15/2022	Prin	Int	Total
	(\$859,366.00)		
12/15/2022	(\$57,807.12)	\$0.00	(\$57,807.12)
6/15/2023	(\$58,457.45)	\$0.00	(\$58,457.45)
12/15/2023	(\$59,115.09)	\$0.00	(\$59,115.09)
6/15/2024	(\$59,780.14)	\$0.00	(\$59,780.14)
12/15/2024	(\$60,452.67)	\$0.00	(\$60,452.67)
6/15/2025	(\$61,132.76)	\$0.00	(\$61,132.76)
12/15/2025	(\$61,820.50)	\$0.00	(\$61,820.50)
6/15/2026	(\$62,515.98)	\$0.00	(\$62,515.98)
12/15/2026	(\$63,219.29)	\$0.00	(\$63,219.29)
6/15/2027	(\$63,930.50)	\$0.00	(\$63,930.50)
12/15/2027	(\$64,649.72)	\$0.00	(\$64,649.72)
6/15/2028	(\$65,377.03)	\$0.00	(\$65,377.03)
12/15/2028	(\$66,112.52)	\$0.00	(\$66,112.52)
6/15/2029	(\$54,995.22)	\$0.00	(\$66,856.29)



## Council Agenda Item

Meeting Date:	Tuesday, October 5, 2021
Agenda Item:	ATV & UTV in the Jefferson Co. Portion of Whitewater
Staff Contact (name, email, phone):	Cameron Clapper, <a href="mailto:cclapper@whitewater-wi.gov">cclapper@whitewater-wi.gov</a> , 262.473.0104

### BACKGROUND

(Enter the who, what when, where, why)

Councilmember Majkrzak has requested consideration of the use of ATVs and UTVs on routes within the Jefferson County portion of Whitewater, excluding UW-Whitewater property.

Staff members worked with Councilmember Majkrzak to prepare POLCO questions on the subject and Councilmember Majkrzak also met with city attorney, police chief, and city manager to better understand existing ordinances related to ATV/UTV use in Whitewater.

At the last common council meeting on September 21, 2021, Councilmember Majkrzak requested that the discussion of this issue be included on an upcoming agenda.

#### POLCO Question Response Highlights

- ATV/UTV use in the downtown area was not favorable.
- The idea of people making Whitewater a destination on ATV/UTV was unlikely.
- A number of comments opposing ATV/UTV use referred to use on county roads entirely.

#### Jefferson County ATV/UTV Access (1-year Trial) Key Points

- Jefferson county has approved ATV/UTV use on county roads for a 1-year trial period.
- Any city ordinance could be tied to the Jefferson County ordinance so that permitted ATV/UTV use on city routes would not remain without the Jefferson County ordinance in place.

#### Area Map for Potential UTV Use

- A map is included with this item to highlight the area where Councilmember Majkrzak would propose the allowance of ATV/UTV use.

#### Links for Further Information

- WI ATV/UTV laws link: <https://dnr.wisconsin.gov/topic/atv>
- WI DOT link: <https://wisconsin.gov/Pages/doing-bus/real-estate/permits/atv-utv.aspx>

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

### FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

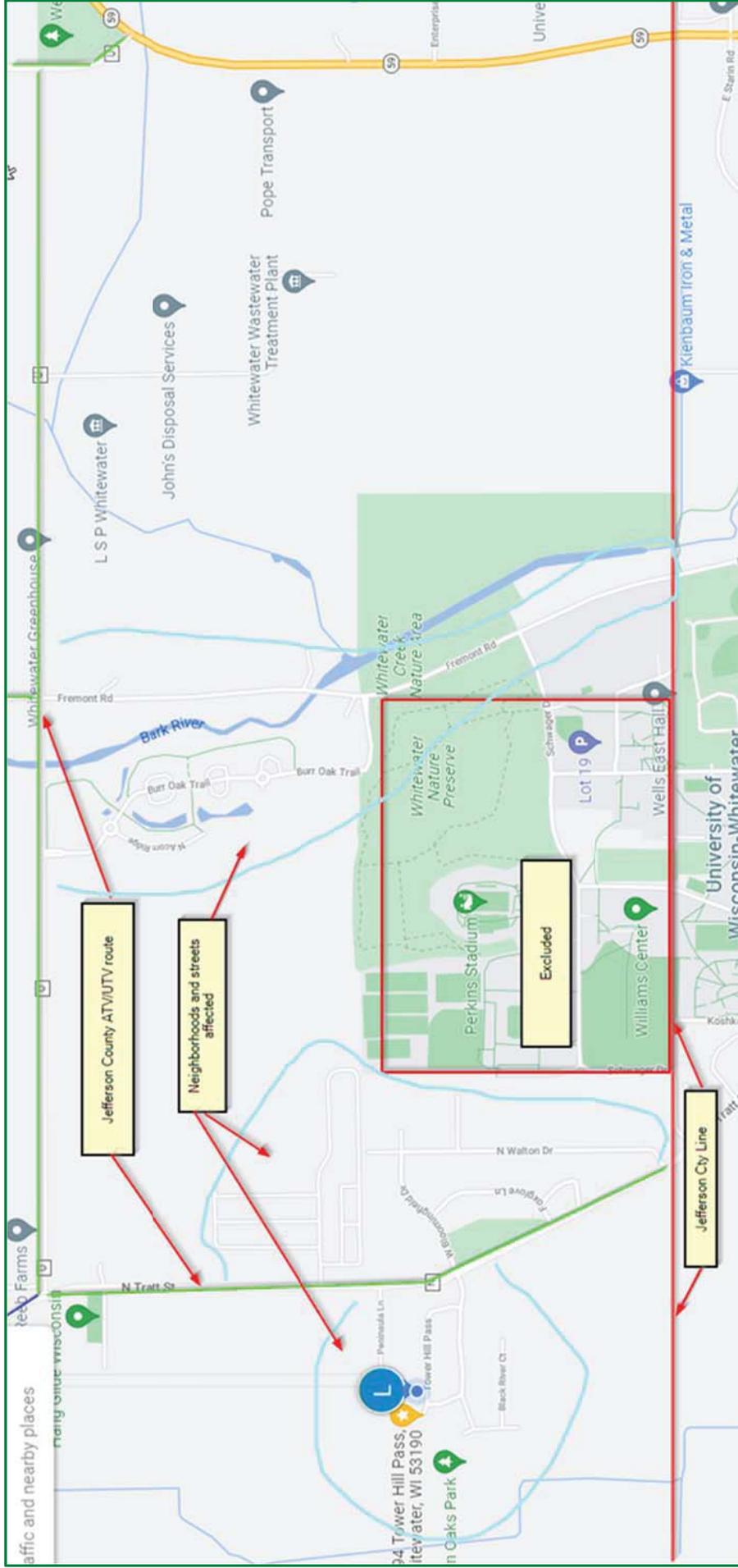
None.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

- Area Map for Potential UTV Use in Whitewater
- POLCO ATV/UTV Responses from August 20, 2021
- Jefferson County ATV/UTV Ordinance
- Jefferson City ATV/UTV Report by Chief Kenneth Pileggi

**City of Whitewater  
Jefferson County Portion  
Potential Use Area for ATVs & UTVs**



Source: Prepared by Councilmember Greg Majkrzak



Thoughts on ATV and UTV  
use in Jefferson County  
and City of Whitewater  
streets

Poll Set Results  
FINAL

08/20/2021

**Given the newly approved ordinance by the Jefferson County Board of Supervisors allowing ATV's/UTV's to operate on county highways, what are your thoughts about ATV's/UTV's having access to the new routes within Jefferson County?**

Great for residents who want to utilize the new routes. I appreciate the way the rules are written.

They should have access

One more thing for car drivers to watch out for on the roads. People (in general) have become rushed and self-oriented.

I think this is a dangerous decision. Having small sport vehicles on county highways is asking for accidents to happen. Keep them off road or on designated trails.

If it gets more people outside and off of the couch, I'm all for it. It is doubtful that ATV's/UTV's will be used for long trips, but would allow quick trips to friend's house or town while providing similar satisfaction to riding with the top off on a Jeep.

I feel that this will create more problems than it is worth. Especially in the winter, when the less experienced college aged drivers already have issues driving in the snow. Adding this traffic will lead to more accidents and property damage. Another issue is that it will open the door to snowmobile traffic on city roads that has its own set of issues. There are plenty of area trails for these types of recreational activities, save our roads for the traffic they were designed to accommodate.

They would have to be registered and license at the same rates as an auto/motorcycle. following the same rules of the road, same as an auto/motorcycle.

Don't care.

bad idea

I would like Whitewater to do this as well

Are you kidding? No way!

It's a great idea

Accidents will be happening.

I think they will be unsafe, hazardous additional problems while driving, for all drivers, be they in regular vehicles or the A/UTVs. Navigating streets and highways are difficult enough as they are, with inattentive drivers, narrow lanes, rough shoulders, angled parking, etc. Hazardous weather conditions will present even more problems. The # of pedestrian deaths by vehicles has shot up drastically in the last 10 years, mainly due to inattentive driving, and adding these vehicles to that mix will further exacerbate the problem.

This seems unsafe. We have enough car accidents without adding them.

thats great!

no

if street legal and being operated within same laws regarding other vehicles, i see no reason not to allow it

I would love Whitewater to become a golf cart city. It would be great

Not safe

Not a smart idea

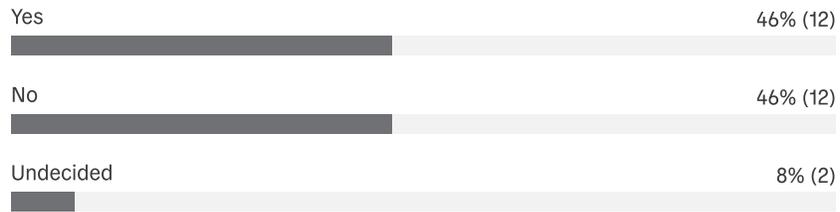
Allow ATVs?UTVs access to all routes within Jefferson and Walworth Co.

Not a fan

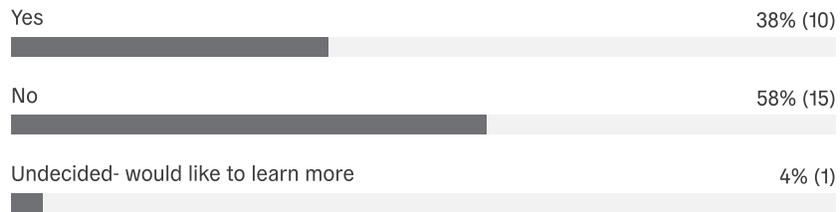
stupid idea. too many college students walking against the lights and horsing around in the streets to begin with.

NO PROBLEM

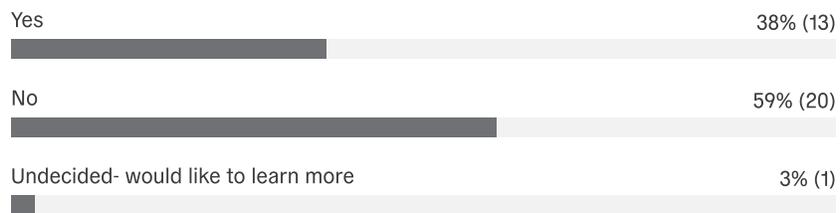
**Are you in favor of ATV's utilizing county highways within Jefferson County?**



**Would you be in favor of ATV's and UTV's on city streets in Whitewater? (This is not currently being discussed in Whitewater. City officials are looking for public feedback on the interest of this ordinance)**



**Would you be interested to use an ATV/UTV on city streets within the City of Whitewater?**



## If ATV's and UTV's would be approved on city streets in Whitewater, how do you feel it would affect you?

With the way the rules and regulations written I believe there would be little affect other than opening up access to the routes without having to trailer.

Positively

Already get woken up by noisy vehicles of all types. Let's just add more options for the idiots that think this is acceptable behavior. (I'm being sarcastic.)

cause traffic problems

Why do we need ATVs on city streets? There are so many walkers and bikers in Whitewater that I see it as a hazard. ATV drivers, that I have observed, do not drive safely for the most part. I fear accidents with pedestrians and bicycles could be imminent if this is allowed. And keep in mind that Whitewater has a number of university students who use wheelchairs or have physical disabilities that make it difficult for them to cross streets quickly. City streets are no place for vehicles made for off road sport driving.

Would allow quick trips and access to other ATV/UTV routes. Overall I feel it would be a positive addition.

Getting to the point where driving a vehicle in Whitewater is too dangerous. Between Students who just walk out in front of traffic, now they are going to zip in and around and in front traffic with their scooters. Now your adding ATV's to the mix ?

it wouldn't

problems with visibility, suspect most of the users would be young or students with less experience or awareness of safety

It wouldn't affect me. I would be excited!

I'd be angry. City streets were made for automobiles. Those individuals that want to ride ATVs/snowmobile's and anything else that goes can do it out in the country. I am strongly against this.

It wouldn't affect me and would open up opportunities for the UTV/ATV owners to utilize their machines more

Not sure but it would be nice to be able to have this as an option for driving. Thank you.

I think it could lead to increased congestion if on main streets and possibly more accidents, especially initially while everyone acclimates. Both have the potential to affect me personally.

Transportation for teenagers

It would make it more dangerous to be a pedestrian. It would make it more dangerous for the ATV operators to be mixed in with full size vehicles (especially since they've generally gotten so big!). I think it's a bad decision.

Potentially noisy and people driving while inebriated.

Whitewater streets are already too difficult to navigate, with lack of visibility, narrow lanes, people not stopping at red lights when turning right from the right lane, drivers not following speed signs, blind intersections, etc.. I'm a very careful, cautious driver and I still find driving on WW city streets difficult, especially at intersections with just stop signs or 4-way stops. I have to be extra careful in areas where there are university pedestrians, K-12 school pedestrians, so adding one more hazard to the streets would be a nightmare. Cyclists also add additional hazards to the streets, even when using bike lanes. I don't possess a cell phone, so I don't have that added distraction, but most drivers are using their devices while driving, as I can see with my own eyes how they are not paying attention to what's in front of them, behind them, or at the sides, nor are they paying attention to stop lights. Distracted drivers aren't using their turn signals either. ATV/UTV drivers are no exception, and I would be negatively

affected by having them added to our already hazardous streets and blind intersections.

I would hate the added traffic. It would also add to the problem of the rescue squad being stretched too thin.

It would benefit my family by being able to do business and leisure riding

it would be unsafe

Poorly.

I do not see a problem for me . I just do not have a need myself.

I would have to be a more cautious driver.

It would make us less safe driving and walking.

Make driving in the city a lot more dangerous. Bird scooters are already going to be a traffic problem.

Beneficial to my family

Accidents would be more common

it would be even more dangerous to drive through Whitewater. time to move.

very little

**Given the newly approved ordinance by the Jefferson County Board of Supervisors allowing ATV's/UTV's to operate on county highways, what are your thoughts about ATV's/UTV's having access to the new routes within Jefferson County?**

Responses

Great for residents who want to utilize the new routes. I appreciate the way the rules are written.

They should have access

One more thing for car drivers to watch out for on the roads. People (in general) have become rushed and self-oriented.

I think this is a dangerous decision. Having small sport vehicles on county highways is asking for accidents to happen. Keep them off road or on designated trails.

If it gets more people outside and off of the couch, I'm all for it. It is doubtful that ATV's/UTV's will be used for long trips, but would allow quick trips to friend's house or town while providing similar satisfaction to riding with the top off on a Jeep.

I feel that this will create more problems than it is worth. Especially in the winter, when the less experienced college aged drivers already have issues driving in the snow. Adding this traffic will lead to more accidents and property damage. Another issue is that it will open the door to snowmobile traffic on city roads that has its own set of issues. There are plenty of area trails for these types of recreational activities, save our roads for the traffic they were designed to accommodate.

They would have to be registered and license at the same rates as an auto/motorcycle. following the same rules of the road, same as an auto/motorcycle.

Don't care.

bad idea

I would like Whitewater to do this as well

Are you kidding? No way!

It's a great idea

Accidents will be happening.

I think they will be unsafe, hazardous additional problems while driving, for all drivers, be they in regular vehicles or the A/UTVs. Navigating streets and highways are difficult enough as they are, with inattentive drivers, narrow lanes, rough shoulders, angled parking, etc. Hazardous weather conditions will present even more problems. The # of pedestrian deaths by vehicles has shot up drastically in the last 10 years, mainly due to inattentive driving, and adding these vehicles to that mix will further exacerbate the problem.

This seems unsafe. We have enough car accidents without adding them.

thats great!

no

if street legal and being operated within same laws regarding other vehicles, i see no reason not to allow it

I would love Whitewater to become a golf cart city. It would be great

Not safe

Not a smart idea

Allow ATVs?UTVs access to all routes within Jefferson and Walworth Co.

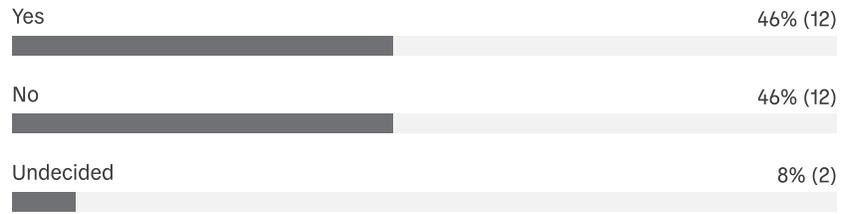
Not a fan

stupid idea. too many college students walking against the lights and horsing around in the streets to begin with.

NO PROBLEM

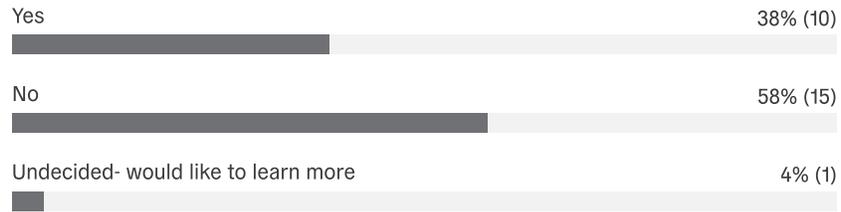
**Are you in favor of ATV's utilizing county highways within Jefferson County?**

Overview



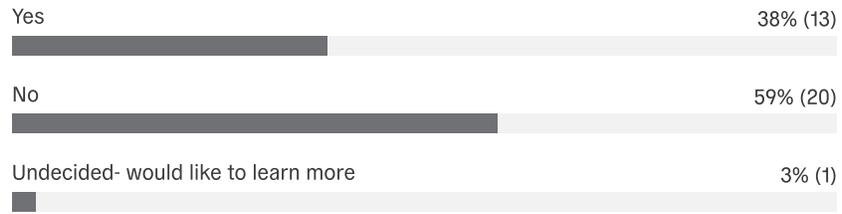
**Would you be in favor of ATV's and UTV's on city streets in  
Whitewater? (This is not currently being discussed in Whitewater.  
City officials are looking for public feedback on the interest of this  
ordinance)**

Overview



**Would you be interested to use an ATV/UTV on city streets within the City of Whitewater?**

Overview



## If ATV's and UTV's would be approved on city streets in Whitewater, how do you feel it would affect you?

### Responses

With the way the rules and regulations written I believe there would be little affect other than opening up access to the routes without having to trailer.

Positively

Already get woken up by noisy vehicles of all types. Let's just add more options for the idiots that think this is acceptable behavior. (I'm being sarcastic.)

cause traffic problems

Why do we need ATVs on city streets? There are so many walkers and bikers in Whitewater that I see it as a hazard. ATV drivers, that I have observed, do not drive safely for the most part. I fear accidents with pedestrians and bicycles could be imminent if this is allowed. And keep in mind that Whitewater has a number of university students who use wheelchairs or have physical disabilities that make it difficult for them to cross streets quickly. City streets are no place for vehicles made for off road sport driving.

Would allow quick trips and access to other ATV/UTV routes. Overall I feel it would be a positive addition.

Getting to the point where driving a vehicle in Whitewater is too dangerous. Between Students who just walk out in front of traffic, now they are going to zip in and around and in front traffic with their scooters. Now your adding ATV's to the mix ?

it wouldn't

problems with visibility, suspect most of the users would be young or students with less experience or awareness of safety

It wouldn't affect me. I would be excited!

I'd be angry. City streets were made for automobiles. Those individuals that want to ride ATVs/snowmobile's and anything else that goes can do it out in the country. I am strongly against this.

It wouldn't affect me and would open up opportunities for the UTV/ATV owners to utilize their machines more

Not sure but it would be nice to be able to have this as an option for driving. Thank you.

I think it could lead to increased congestion if on main streets and possibly more accidents, especially initially while everyone acclimates. Both have the potential to affect me personally.

Transportation for teenagers

It would make it more dangerous to be a pedestrian. It would make it more dangerous for the ATV operators to be mixed in with full size vehicles (especially since they've generally gotten so big!). I think it's a bad decision.

Potentially noisy and people driving while inebriated.

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Beneficial to my family

Accidents would be more common

it would be even more dangerous to drive through Whitewater. time to move.

very little

## **ORDINANCE NO. 2021-01**

### **Jefferson County - All-Terrain Vehicle (ATV) and Utility-Terrain Vehicle (UTV) Route Ordinance**

#### **Section 1 - General**

Following due consideration of the recreational and economic value to access businesses and residences weighted against possible dangers, public health, public safety, liability aspects, terrain involved, traffic density and other traffic risks, this ordinance is enacted pursuant to sections 59.02 and 23.33 Wis. Stats., and the provisions of the Wisconsin Administrative Code NR 64 regulating ATV operation, which is hereby incorporated and adopted.

#### **Section 2 - Applicability and Enforcement**

The provisions of this Ordinance shall apply to all county highways within the jurisdiction of Jefferson County and the provisions of this ordinance shall be enforced by the Jefferson County Sheriff's Office.

Adoption of this ordinance shall not prohibit any law enforcement officer or DNR warden from proceeding under any other ordinance, regulation, statute, law, or order that pertains to the subject matter addressed under this section.

#### **Section 3 - Limitations**

The following limitations apply on all areas designated in this Ordinance:

Operators and passengers of all ATVs/UTVs shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including, but not limited to, section 23.33 Wis. Stats. and Wisconsin Administrative Code NR 64.

This Ordinance incorporates by reference all definitions under section 23.33 Wis. Stats. and Wisconsin Administrative Code NR 64 and any other applicable Wisconsin Law defining ATVs/UTVs and regulating ATV/UTV use unless this Ordinance states otherwise.

ATVs/UTVs shall be operated on the extreme right side of the roadway on the paved surface.

ATVs/UTVs may be operated on paved surfaces only, unless yielding the right of way.

ATV/UTV operators are required to have applicable liability insurance.

ATVs/UTVs shall not be operated at a speed greater than the posted speed limits.

ATVs/UTVs may not be operated on any county highway route without fully functional headlights, taillights, and brake lights.

ATVs/UTVs may not be operated on any county highway route between the hours of 10:00 p.m. and 5:00 a.m.

No person may operate an ATV/UTV on any county highway route without a valid driver's license and shall display the license upon demand from any law enforcement officer or official described in section 23.33(12) Wis. Stats.

#### **Section 4 - ATV/UTV Routes**

County highway routes designated for ATV/UTV use shall be established and approved by the Jefferson County Highway Committee. Any modification to the routes designated for ATV/UTV use shall be approved by the Jefferson County Highway Committee.

The routes designated as an ATV/UTV vehicle route shall be as follows: All County Highways within Jefferson County jurisdiction.

The Jefferson County Highway Committee shall have the authority to suspend operation on any County Highway route or segment thereof due to hazards, construction, emergency conditions, road damage, or any other issue deemed appropriate for public safety. Routes subsequently removed as an ATV/UTV vehicle route will be posted on the Jefferson County website.

No County highway segment may be designated as an ATV/UTV vehicle route if it is located within a City or Village which has jurisdictional responsibility for that segment without City or Village permission.

#### **Section 5 - Route Signs**

All initial required route signs will be installed and maintained by the Jefferson County Highway Department.

All signs shall be in compliance with the Federal Manual on Uniform Traffic Control Devices (MUTCD).

No person may erect or, remove any official designated route sign unless authorized by the Jefferson County Highway Department in writing.

No person shall operate an ATV/UTV contrary to any authorized and official posted sign.

#### **Section 6 - Penalties**

This Ordinance shall be enforced by the Jefferson County Sheriff's Office or any law enforcement official as set forth in section 23.33(12) Wis. Stats., including the issuance of a citation under section 66.0113 Wis. Stats.

The penalties set forth in section 23.33(13)(a) Wis. Stats., are adopted and incorporated by reference herein.

#### **Section 7 - Severability**

Should any sub-section, clause, or provision of this ordinance be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part declared invalid.

#### **Section 8 - Maintenance**

Designation of segments of the Jefferson County Highway System as ATV/UTV routes does not impose upon the Jefferson County Highway Department a greater duty of care or responsibility

for maintenance of those segments than for any other segment of county highway. Operators of ATV/UTVs on county highways assume all the usual and normal risks of ATV/UTV operation.

**Section 9 - Effective Date**

This Ordinance shall be effective upon enactment and publication.

**Section 10 – Highway Committee Review**

This Ordinance shall be reviewed in its entirety before November 30, 2022 by the Jefferson County Highway Committee giving due consideration to the recreational and economic value to access businesses and residences weighted against possible dangers, public health, public safety, liability aspects, terrain involved, traffic density and other traffic risks since the enactment of this ordinance to make a finding whether or not the benefits of continuing this ordinance outweigh repealing this ordinance. Such findings shall be forwarded to the Jefferson County Board of Supervisors as a Communication which will include any recommended amendments. Any findings and recommendations by the Highway Committee shall be made following consultation with the Jefferson County Sheriff's Office and the Jefferson County Highway Commissioner.

*Fiscal Note: Adoption of the Ordinance could have a potential cost impact for signage required by the MUTCD. The cost of the signage would be initially borne by the Highway Department.*

Voice Vote – Passed

/s/ Steven Nass

Steven Nass, County Board Chair

ATTEST:

/s/ Audrey McGraw

Audrey McGraw, County Clerk

Published this 23<sup>rd</sup> day of April 2021.

Referred By:  
Highway Committee

04-20-21

REVIEWED: County Administrator: BPW; Corporation Counsel: jbw; Finance Director: 



**All Terrain/Utility Terrain Vehicles Report  
Evaluation of Public Street Use  
City of Jefferson**

**Chief Kenneth M. Pileggi  
City of Jefferson Police Department**

**September 15<sup>th</sup>, 2021**

## **Abstract**

The utilization of All Terrain and Utility Terrain Vehicles has become increasingly popular in Wisconsin in the last eight years. With this popularity increase some communities in mostly rural areas have chosen to allow by ordinance the operation of these types of utility vehicles on paved roadways. A review of available research literature and manufacturers information has shown a significant danger to the use of utility vehicles on paved roadways along with other motor vehicle traffic. These vehicles are not designed for operation on paved roadways but are specifically designed for off-road operation only. Research data has shown deadly consequences when communities have allowed for ATV/UTV's to be operated on paved roadways. The benefits of allowing these types of utility vehicles to operate on City of Jefferson streets prove no true benefit to City residents and in fact jeopardize safety to ATV/UTV operators, motorists, bicyclists and pedestrians alike. For this reason, I am recommending against any usage of these types of utility vehicles on any City of Jefferson streets by ordinance. This conclusion points to statistical data from communities that have allowed for this and in some cases resulted in deaths and injuries.

**All-Terrain Vehicle/Utility Vehicles Report**  
**Evaluation of Public Street Use**  
**City of Jefferson**

All-Terrain Vehicles (ATVs) and Utility-Terrain Vehicles (UTVs) are currently prohibited on City of Jefferson streets. Jefferson County recently approved an ordinance allowing ATV/UTVs to operate on Jefferson County highways, though not without much debate.<sup>1</sup> Jefferson County ultimately approved this ordinance in April 2021 - although some supervisors clearly opposed it. There is a sunset clause with a date of November 30<sup>th</sup>, 2022 to review whether or not to continue the ATV/UTV routes within Jefferson County.

Jefferson County has experienced 3 crashes so far in 2021 including 1 car vs. UTV and 1 ATV rollover with injuries since enacting this ordinance.<sup>2</sup> Thankfully, no fatalities have been recorded on Jefferson County highways as of yet.

To date, Wisconsin has experienced 31 fatality crashes involving ATV/UTV's - both on and off road.<sup>3</sup> This is a the highest number of fatalities recorded for these types of vehicles within the State of Wisconsin with the majority of the fatalities occurring in less populated rural (not urban) areas than the City of Jefferson. Manufacturers themselves recommend against riding on paved roadways based on the vehicle's design.<sup>4</sup>

Wisconsin Department of Transportation/Bureau of Traffic Safety Liaisons also weighed in on what they are observing around the State of Wisconsin as they cover numerous County Traffic Safety Commission areas. Our representative provided information to Lake Mills several months ago via an email identifying points that mirror conclusions we have drawn in this report.<sup>5</sup>

Jefferson Police Department Staff has considered allowing for paved roadway operation and does not support the operation of ATVs and UTVs on City roads for the following reasons:

- ATV/UTVs are not intended for roadway travel and the manufacturers indicate this on their manuals and warning stickers on the units.
- The safety features, brakes and tires are not built or suited to perform on paved roadways which increases the potential danger to the rider. ATV's have short wheelbases with higher centers of gravity which lead to the possibility of rolling them over at higher speeds.
- The addition of another type of vehicle on City roads increases the danger for other vehicles, bicyclists, and pedestrians.
- ATV/UTV tires are designed for dirt and rough roads, not for paved terrain. The wide tires with big tire threads create opportunities for rollovers and loss of control during quick or avoidance or evasive turns.

- ATV/UTVs can lack certain safety features, such as turn signals, headlights, and taillights. Some even lack brake lights. They also lack speedometers, horns, windshields, etc. This can be required by ordinance but not all will comply.
- There are no laws in place that require the use of a helmet or the wearing of eye protection when operating an ATV/UTV.
- Drivers of ATV/UTVs are not subject to the same impairment/OWI laws as those driving legal vehicles. If an ATV driver is impaired while driving, he or she is only subject to a DNR violation. This is a huge problem when it comes to multiple OWI convictions.
- Most ATV/UTVs are louder and produce more exhaust than legal vehicles on the road.
- Our community is not surrounded by ATV/UTV trails and does not contain ATV/UTV trails that need support from City resources. We do not have tourism surrounding ATV/UTV focused activity where our local businesses would have benefit from allowing ATV/UTV travel into or through our community. We enjoy being an urban City and not a northern WI ATV-UTV/outdoors-based tourist destination where people would expect to use ATV/UTVs on our roads. Our logo "We're Going Outside" touts all of the natural amenities offered in the City - walking trails, robust natural parks and water features - none of which are designed to accommodate ATV/UTV operation. Our parks ban motorized vehicles and we have no off-road ATV/UTV trail system in the City limits.
- Jefferson County has a series of club owned trails that are located throughout the County in various locations and not interconnected. The Half-Milers Club of Jefferson has groomed ATV/UTV trails located near the northeast side of Jefferson. There are not available ATV/UTV trail maps listed anywhere for Jefferson County. These trails are for club members only and not open to the general public. This means that the Jefferson County Ordinance, utilizing County Highways, has allowed for ATV/UTV roadway routes to be those trails on County Highways. Several townships also allow for paved roadway operation of ATV/UTV's which have resulted in ATV/UTV collisions within the County. This is not what these units are designed for and is directly contrary to the off-road designations these vehicles are meant to be utilized for.
- Jefferson has 4 bridges over the Rock/Crawfish Rivers and has a significant amount of traffic during busy times of the day on 2 of the main thoroughfare bridges (BSH 26/USH 18). Allowing ATV/UTVs to use the roads along with commercial trucks and other legal users increases congestion and decreases safety of ATV/UTV riders, cars, trucks, bicyclists and pedestrians.
- WI State Statute 23.33(11)(am)(4) permits towns, villages or cities to designate ATV/UTV routes on streets posted at 35mph or less regardless of highway designation.

If a town, village or city wants to approve a state highway as a designated ATV/UTV route, it must be designated of state connecting (trails) highway and must be approved by the WI Department of Transportation.<sup>6</sup>

- Jefferson has many annual community events, some of which draw large crowds of people, estimated at 30,000 daily for Friday and Saturday Jefferson Car Show events, the streets are congested and adding the potential of ATV/UTV's would further congest traffic as well as create highly increased potential for traffic incidents.
- The ATV Safety Institute does not support roadway travel as a safe option. They have developed 8 Golden Rules for safety and #2 is: *Never ride on paved roads except to cross when done safely and permitted by law – another vehicle could hit you. ATVs are designed to be operated off-highways.*<sup>7</sup>
- Enforcement issues. We would expect that allowing ATV/UTVs would increase the strain on our already heavily taxed Police and Fire Departments. We will also likely see violations of traffic laws, increased ATV/UTV traffic to our bars, complaints related to loud exhaust or noise, and accidents causing injuries. Allowing ATV/UTVs would not provide any sort of economic benefit that could create additional public safety funding for enforcement. This has been evidenced in communities that have allowed for them. Complaints will come and officers, if this is enacted, will not only be required to be trained on ATV/UTV enforcement, but not have the proper tools to enforce said laws.<sup>8</sup>
- ATV/UTVs are made and designed for off road leisure and work. There is no actual benefit to our community except it is the preference of some citizens who own ATV/UTVs that they be allowed to drive them through the City as a means of transportation in a vehicle not made, designed, or recommended for travel on paved and improved surfaces. Far more residents do not own ATV/UTV's.

*(Continued Next Page)*

<b>Incorporated Cities/Villages w/in Jefferson County - ATV/UTV Operation Chart</b>					
<b>Community</b>	<b>Population</b>	<b>ATV/UTV Operation Allowed on Streets?</b>	<b>ATV/UTV Crashes</b>	<b>ATV/UTV Complaints</b>	<b>Notes</b>
Fort Atkinson	12,422	No	N/A	N/A	-
Lake Mills	5,983	No	N/A	N/A	-
Whitewater	14,895	No	N/A	N/A	Jefferson/Walworth Counties
Waterloo	3,295	Yes	-0-	Yes	Jefferson/Dodge Counties
Johnson Creek	3,048	No	N/A	N/A	Referendum Question 11/2021
Palmyra	1,731	No	N/A	N/A	-
Watertown	23,479	No	N/A	N/A	Jefferson/Dodge Counties
Jefferson County	84,769	Yes - County Highways	3	Yes	5 UTV/ATV Traffic Stops including 1 OWI Sunsets 11/30/2022

## **Conclusion**

In extensively researching public street use of All Terrain/Utility Terrain Vehicles I conclude that based on the City of Jefferson's urban density, vehicle design purposes and uses and traffic volumes within the corporate limits of the City of Jefferson that this would not be in the best interest of the City of Jefferson from a public safety standpoint. I strongly recognize the leisure enjoyment and work abilities of these types of vehicles, however they are meant to be enjoyed and utilized for off-road activities. Therefore, I would strongly recommend, for the reasons stated within this research report, not allowing for any ordinance allowing for the operation of All Terrain/Utility Terrain Vehicles on the streets of the City of Jefferson.

## References

- <sup>1</sup> *County to Allow ATV's on Roads*: Jefferson County Daily Union, Adams Publishing Group (Sharp, Steven) - *Article on Jefferson County Board of Supervisor's approval of ATV's on roadways.* [https://www.dailynion.com/news/jefferson\\_county\\_area/county-to-allow-atvs-on-roads/article\\_5023ea396-a3f6-52f4-bbf3-576186613d82d.html](https://www.dailynion.com/news/jefferson_county_area/county-to-allow-atvs-on-roads/article_5023ea396-a3f6-52f4-bbf3-576186613d82d.html)
- <sup>2</sup> *ATV/UTV Traffic Crashes w/in Jefferson County*: Jefferson County Sheriff's Office (Maze, Travis - Captain, JESO) - *Identified crashes within Jefferson County involving ATV/UTV's.*
- <sup>3</sup> *WI DNR 2021 Off-Highway Vehicle Fatal Accident Summary 09/13/2021*: WI DNR (Weissinger, Randy - WI DOT/BOTS Law Enforcement Liaison/Consultant). *Provides up to date data regarding fatality ATV/UTV information in WI for 2021.*  
<https://dnr.wisconsin.gov/topic/ATV/CrashInfo>
- <sup>4</sup> *Tips & Practice Guide for the All-Terrain Vehicle Rider*: ATV Safety Institute - Specialty Vehicle Institute of America. *Manufacturers Association (ATV Safety Institute) providing guidelines to follow regarding ATV/UTV safety as identified by the ATV Safety Institute.*  
<https://atvsafety.org/the-golden-rules>
- <sup>5</sup> *ATV/UTV Routes General Information w/in WI - Email from LEL Randy Weissinger - BOTS to Lake Mills.* (Weissinger/Randy - WI DOT BOTS LEL/Consultant). *Identifies basic historical data and challenges facing communities regarding ATV/UTV roadway operations, recommendation against allowing such ordinances.* [rpw@weissinger.com](mailto:rpw@weissinger.com)
- <sup>6</sup> *State of WI/DOT/All Terrain Vehicles and Utility Terrain Vehicles*: WI DOT. *Description from DOT of specific laws, limitations and allowances for uses of ATV/UTV's on WI roadway routes.*  
<https://wisconsin.gov/Pages/doing-business/real-estate/permits/atv-utv.aspx>
- <sup>7</sup> *Tips & Practice Guide for All Terrain Vehicle Riders; the 8 Golden Rules*: ATV Safety Institute - Specialty Vehicle Institute of America. *Manufacturers Association (ATV Safety Institute) basic chart identifying the 8 Golden Rules of Safe ATV operations; identifies not to ride ATV's on paved roadways other than for crossing at designated paved roadway crossing areas.*  
<https://atvsafety.org/the-golden-rules>
- <sup>8</sup> *Wisconsin Recreational Vehicle Safety Education & Enforcement*: WI DNR/Bureau of Law Enforcement Pub-314-2020. *WI DNR Bureau of Law Enforcement services tracks all facets of ATV/UTV/Off Highway Motorcycle (OHM), snowmobile and boats incidents including, but not limited to; Incident-Crash Investigations, Enforcement, Safety Education, Operations and Training as well as Municipal Ordinance Review and Administration.*  
[https://dnr.wi.gov/files/pdf/pubs/le/LE0501\\_2019.pdf](https://dnr.wi.gov/files/pdf/pubs/le/LE0501_2019.pdf)

## **Other Resources**

- *Wisconsin ATV/UTV Law Changes - Effective March 4, 2020*: WI DNR Law Enforcement Services. *Summary of legislative law changes chiefly identifying the type of tire that is permitted as well as other new limitations.*  
<https://dnr.wi.gov/files/pdf/pubs/le/lea507.pdf>
- *2021 WI All-Terrain/Utility Vehicle Laws*: WI DNR. *Pamphlet provides an overview of WI ATV/UTV Laws in summary.*  
<https://widnr.widen.net/content/89sozstlmu/pdf/2020-ATV-UTV-Regulations.pdf?u=z%E2%80%A6>
- *2021 WI ATV/UTV Trail Planning Map*: WI ATV-UTV Association. *Provides a current overview of WI ATV/UTV Trail Maps.*  
<https://www.watva.org/index.php/where-to-ride/statewide-trail-map>



## Council Agenda Item

Meeting Date:	Tuesday, October 5, 2021
Agenda Item:	Review of Ordinance Chapter 11.40 Bicycle Registration
Staff Contact (name, email, phone):	Cameron Clapper, <a href="mailto:cclapper@whitewater-wi.gov">cclapper@whitewater-wi.gov</a> , 262.473.0104

### BACKGROUND

(Enter the who, what when, where, why)

Councilmember Majkrzak recently requested this item be brought forward for discussion.

The City of Whitewater has an ordinance requiring registration of bicycles. However, the ordinance is currently not enforced.

This item is an opportunity for all common council members to become familiar with the existing ordinance and discuss whether any part of the ordinance or its enforcement should be changed.

### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

### FINANCIAL IMPACT

(If none, state N/A)

N/A

### STAFF RECOMMENDATION

Staff has no recommendation on this item.

### ATTACHMENT(S) INCLUDED

(If none, state N/A)

Whitewater Municipal Code Ordinance 11.40 - Bicycles

## Chapter 11.40 - BICYCLES

Sections:*Footnotes:*

--- (5) ---

*For the statutory provisions regulating bicycles and play vehicles, see WSA §§ 346.77 to 346.82.*

## 11.40.010 - Registration required.

It is unlawful for any person to operate a bicycle upon any street within the city unless the bicycle has first been properly registered and tagged as hereinafter provided.

(Prior code § 12.18(1)).

## 11.40.020 - Registration—Form.

Every owner or operator of any bicycle within the city shall, within ten days after acquiring same, file with the chief of police, or duly designated officer, a complete description of such bicycle, upon a blank form to be provided for the purpose which such filing of description shall constitute a registration of such bicycle for the purposes of this chapter. Such registration shall be serially numbered and be kept on file by the chief of police in his office as a public record, and show the make, model and serial number of the bicycle, if any.

(Prior code § 12.18(2)).

## 11.40.030 - Identification tag required—Fee.

(a) Immediately upon the registration of a bicycle in his office, the chief of police, or duly designated officer shall assign to such bicycle an identification tag, serially numbered to correspond with the registration of such bicycle. The owner shall be responsible for affixing the tag to such bicycle and for keeping the tag affixed. The fee for the identification tag shall be three dollars.

(b) All tags issued shall be effective for as long as the applicant retains ownership of the bicycle.

(Ord. 1387 § 1, 1997; Ord. 1040 § 1, 1984; Ord. 664 § 1, 1970; prior code § 12.18(3)).

## 11.40.040 - Inspection.

The chief of police may inspect each bicycle presented to him for registration, and he shall have the authority to register any bicycle found by him to be in unsafe mechanical condition.

(Ord. 846 § 1, 1975; prior code § 12.18(4)).

## 11.40.050 - Registration—Revocation.

The chief of police shall have the right to cancel the registration of and remove the identification tag from any bicycle being operated upon any street in the city in an unsafe manner, or in violation of any state law or in violation of any provisions hereof, or of other local ordinance and such cancellation or registration and removal of tag shall be in addition to other penalties provided hereunder.

(Prior code § 12.18(5)).

#### 11.40.060 - Sale or dismantling—Report required.

Within ten days after any bicycle registered hereunder has changed ownership, or been dismantled and taken out of operation, such information shall be reported to the chief of police by the person in whose name the bicycle has been registered. When ownership of any bicycle is changed, the identification tag shall be surrendered to the chief of police and a new identification tag shall be issued as provided in Section 11.40.030.

(Prior code § 12.18(6)).

#### 11.40.070 - Obedience to vehicle or traffic regulations and riding regulations.

For the purpose of this chapter bicycles shall be classified as vehicles and are therefore required to obey all rules dealing with vehicular traffic.

In addition to owners or operators obeying all vehicular traffic regulations they shall obey the following:

- (a) No person shall operate at any time a bicycle while under the influence of an intoxicant or controlled substance.
- (c) No person riding upon a bicycle, coaster, wagon, roller skates, sled, toboggan, or any toy vehicle shall attach the same or himself to any other motor vehicle on a city street.
- (d) Any person operating a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto and no bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped with proper seats.
- (e) No person operating a bicycle shall carry any packages, bundle, or article which prevents the operator from keeping at least one hand upon the handlebars at all times.
- (f) Except when preparing to make a left-hand turn with the proper hand signal, every person operating a bicycle upon a road or street shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (g) Persons riding bicycles upon a street or roadway shall ride single file at all times.
- (h) No person may operate a bicycle during the hours of darkness unless such bicycle is equipped with or the operator is wearing a lamp emitting a white light visible from a distance of at least five hundred feet to the front of such bicycle. Such bicycle shall also be equipped

with a red reflector that has a diameter of at least two inches of surface area on the rear so mounted and maintained as to be visible from all distances from fifty to five hundred feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition but not in lieu of the red reflector.

- (i) Racing on any street is prohibited.
- (j) No person shall operate a bicycle unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement and with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, but a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (k) Riding bicycles on sidewalks is prohibited in the central business district.

(Ord. 846 § 2, 1975: prior code § 12.18(7) and (8)).

#### 11.40.090 - Operation without registration or in reckless manner prohibited.

Any person who operates any bicycle not properly registered or carrying a proper identification tag is required herein, upon any street in the city, or who operates such bicycle in an unsafe manner, or in violation of any state law or in violation of any of the provisions of this chapter or other local ordinances shall upon conviction thereof be subject to the penalty provided in Section 11.40.100.

(Prior code § 12.18(9)).

#### 11.40.100 - Penalty for violations.

Any person who violates any provisions of this chapter shall, upon conviction thereof, forfeit not less than five dollars nor more than twenty-five dollars, together with the costs of the action and in default of the payment of such forfeiture and costs, shall be imprisoned in the county jail of the proper county until such forfeiture and costs are paid or for a term not to exceed five days.

(Ord. 983 § 42(part), 1982).

#### 11.40.110 - Parent or guardian responsibility.

- (a) No parent or guardian of any child under the age of eighteen years shall authorize or knowingly permit such child to violate any of the provisions of this chapter.
- (b) Any person who violates subsection (a) of this section shall pay a forfeiture of not less than five dollars nor more than twenty-five dollars and the costs of prosecution or in default in payment thereof be imprisoned in the county jail of the proper county for no more than five days.
- (c) If any child under the age of eighteen years has had his bicycle operating privileges in the city

suspended and if such child rides a bicycle registered to him or to his parent or guardian during such period of suspension, the parent or guardian shall be deemed to have violated this section.

(Ord. 983 § 42(part), 1982; Ord. 678 § 2, 1970: prior code § 12.18(11)).

RESOLUTION FOR THE SALE OF REAL ESTATE

WHEREAS, the City of Whitewater is the owner of the following property:

Parcel # /A305000001, City of Whitewater, Walworth County, Wisconsin.

WHEREAS, James Richter or his assigns seeks to purchase the north 2.5 acres of said property for \$42,500 for the purpose of constructing a building and operating a construction business, and

WHEREAS, the sale of said property will promote economic development in the City of Whitewater, and

WHEREAS, it is in the City's and public's best interest to sell said property to James Richter or his assigns for this purpose, and

NOW, THEREFORE, BE IT RESOLVED that the City of Whitewater City Manager and City Clerk are authorized to sign any documents and take action to transfer said property to James Richter or his assigns.

Resolution introduced by Councilmember \_\_\_\_\_,  
Who moved its adoption. Seconded by Councilmember \_\_\_\_\_.

AYES:

NOES:

\_\_\_\_\_  
Cameron Clapper, City Manager

ABSENT:

\_\_\_\_\_  
Michele Smith, City Clerk

ADOPTED: