

**Amended Agenda as of 5/4/09 at 2:30 p.m.  
adding R-6 and adding to closed session "University  
Technology Park Acquisition."**

**CITY OF WHITEWATER  
COMMON COUNCIL AGENDA**

Common Council Meeting

Tuesday, May 5, 2009

6:30 p.m.

City of Whitewater Municipal Building Community Room  
312 W. Whitewater Street Whitewater, Wisconsin

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

**CONSENT AGENDA:**

CA-A	Approval of Council Minutes of 3/3/09 and 3/17/09.
CA-B	Approval of Payment of Invoices processed through April 30, 2009.
CA-C	*Acknowledgment of Receipt and Filing of : *Plan Commission minutes of 5/5/08. *Landmarks Commission Minutes of 2/4/09 and 3/4/09. *CDA Minutes of 3/23/2009.
CA-D	Expedited approval of the following items, per city staff recommendation: R-1, R-2, R-3, R-4, O-3.

**REPORTS:**

City Manager	1) Update on Federal Grants; 2) City Comprehensive Planning Process; 3) Proclamation of the Historic Preservation Month; 4) Proclamation of the Wisconsin Archaeology Month; 5) Proclamation of Tree City USA.
CDA	1) 1 <sup>st</sup> Quarter of 2009 CDA Report.
Downtown Whitewater	1) 1 <sup>st</sup> Quarter 2009 DTWW Executive Report.

**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 3-5 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.

**COMMON COUNCIL ANNOUNCEMENTS.**

**RESOLUTIONS:**

*R-1	Adopting The Whitewater Register as the Official Newspaper.
*R-2	Authorizing Official Depositories.
*R-3	Approving Clean Water Fund Authorized Representative.
*R-4	Approving Clean Water Fund Reimbursement Resolution.
R-5	Adopting a Natural Hazards Mitigation Plan for Walworth County and City of Whitewater.

R-6	<b>Authorizing the City Manager and City Clerk to execute a Quit Claim Deed, and any other documents necessary, to transfer Outlot 1 of Springbrook Subdivision/CSM (a Storm Water Management Area) back to Springbrook Apartments, LLC.</b>
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**ORDINANCES – First Reading.**

O-1	Adoption of Chronic Nuisance Ordinance (3 alternatives to be considered).
O-2	Amending Chapter 1.29 Regarding Re-Inspection Fee & Abatement Plan (Councilmember Singer).

**ORDINANCES – Second Reading.**

*O-3	Amendment to Chapter 11 relating to Parking Regulations on Fourth Street.
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**CONSIDERATIONS:**

C-1	Appointment of Citizen Members to Boards and Commissions.
C-2	Approval of Contract with Strand Associates for Wastewater Treatment Plan Equipment Replacement. (DPW Director Request).
C-3	Approval of Contract with Strand Associates for Design and User Charge Sewer Rates System. (DPW Director Request).
C-4	Approval of purchase of backhoe from Yale Equipment & Services, Menomonee Falls, WI for \$61,750.00 (DPW Director Request).
C-5	Certification of South Neighborhood Plan.
C-6	Discussion on Board and Commission Attendance Policy (Councilmember Taylor Request).
C-7	Councilmember request for future agenda items.
C-8	ADJOURN TO EXECUTIVE SESSION, TO RECONVENE, per Wisconsin Statutes 19.85(1)(c) “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility” AND 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: TEAMSTERS Dispatch Union Negotiations and Possible Ratification of 2009 – 2011 Contract. <b>AND University Technology Park Acquisition.</b>
C-9	RECONVENE INTO OPEN SESSION and possible ratification of 2009-2011 Teamsters Dispatch Union Contract for 2009-2011.
C-10	ADJOURNMENT.

**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.**

**ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF  
THE COMMON COUNCIL OF THE CITY OF WHITEWATER, WALWORTH AND  
JEFFERSON COUNTIES, WISCONSIN.**

March 3, 2009

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Taylor and seconded by Allen to approve the Common Council minutes of February 3, 2009 and February 19, 2009 and to acknowledge receipt and filing of: CDA minutes of 1/26/09; Police and Fire commission minutes of 11/19/09; Report of Manually-Produced checks for March, 2009; Police Department Consolidated Monthly Report for January, 2009; Plan Commission Minutes of January 19, 2009; and Irvin L. Young Memorial Library Board minutes of January 12, 2009. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**APPROVAL OF PAYMENT OF INVOICES:** It was moved by Taylor and seconded by Allen to approve payment of invoices in the total sum of \$108,341.28. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**STAFF REPORTS:** City Manager Brunner reported on his attendance at the annual Wisconsin City Managers Conference, and Park and Recreation employee Michelle DuJardin reported on her attendance at the Rocky Mountain Revenue Management School and on the Freeze Fest event held at Cravath Lake.

**HEARING OF CITIZEN COMMENTS:** None.

**COMMON COUNCIL ANNOUNCEMENTS:** None.

**FIRST READING OF ORDINANCE AMENDING CHAPTER 1.24, "CITY LIMITS."** When annexations or de-annexations take place, it is necessary that the City update the legal description identifying the boundaries.

**ORDINANCE NO. 1722  
AN ORDINANCE AMENDING CHAPTER 1.24 ENTITLED "CITY LIMITS"**

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

**SECTION 1:** Whitewater Municipal Code Section 1.24.010 is hereby amended to read as follows:

**City Boundaries:** All that territory and section of county described as follows shall constitute the extent and limits of the City of Whitewater:

All that territory and section of Walworth and Jefferson Counties, Wisconsin described as follows shall constitute the extent and limits of the City of Whitewater:

Beginning at the NE corner of Section 3, T4N, R15E, thence West along the North line of said Section 3, 65.5 feet more or less, to the SE corner of Section 34, T5N, R15E; thence North along the East line of said Section 34, to a point 2474.96 feet South of the East 1/4 corner of said Section 34; said point being the SE corner of Certified Survey Map 2436; thence westerly 333.90 feet along the South line of said Certified Survey Map; thence North 391.37 feet along the West line of said Certified Survey Map; thence East 333.90 feet along the North line of said Certified Survey Map to the East line of said Section; thence North along the East line of said Section 34 2083.59 feet to the East 1/4 corner of said Section 34; thence West along the South line of the Northeast 1/4 of said Section 34 to its intersection with the southerly extension of the West line of the Plat of Crestwood Heights as recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 8 of Plats on page 32; thence northerly along said extension and

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the West line of said Crestwood Heights to the Northwest corner of Crestwood Heights; thence southeasterly along the North line of Crestwood Heights 504.59 feet to an angle point in the northerly line of Lot 10 of Crestwood Heights; thence S 74°43' E along the North line of Crestwood Heights 216.18 feet to the Northeast corner of Lot 10 of Crestwood Heights; thence continuing S 74°43' E 1292.16 feet more or less to the East line of the Northeast 1/4 of said Section 34; thence North along the East line of the Northeast 1/4 of said Section 34 to a point lying 572.3 feet South of the Northeast corner of said Section 34; thence N 85°20' W 779.0 feet; thence N 0°31' E 510.7 feet to a point on the North line of said Section 34 which lies 771.1 feet West of the Northeast corner of said Section 34; thence West along the North line of the Northeast 1/4 of said Section 34 to the North 1/4 corner of said Section 34; thence westerly and southwesterly along the centerline of State Trunk Highway 59 to the point of intersection of said centerline and the westerly extension of the northerly-most line of Lot 1 of Certified Survey Map No. 3197 recorded in the Office of the Jefferson County Register of Deeds in Volume 13 of Certified Surveys at page 249; thence N 84°51'50" E, along said extension of the northerly-most line of said Lot 1, to the East right of way line of STH 59; thence southerly along said right of way 1368.94 feet, as described on CSM #3197, to the NW corner of an existing parcel; thence S 84°19'20" E along the North line of said parcel 179.91 feet; thence N 1°20'45" W 2.0 feet; thence S 84°02'15" E 432.77 feet to the NE corner of said parcel; thence S 0°22'15" E 194.44 feet to the SE corner of said parcel; thence N 86°27'10" W 607.71 feet to the SW corner of said parcel, said corner described on the East right of way line of STH 59; thence S 11°30'15" E along said right of way line 152.76 feet; thence S 1°19'25" E along said right of way line 976.83 feet; thence southeasterly along a curve in said right of way line 665.86 feet; thence S 11°28'15" E along said right of way line 210.31 feet to the NW corner of an existing tract; thence N 78°31'45" E 535.85 feet to the NE corner of said tract; thence S 11°28'15" E 417.39 feet; thence S 3°09'45" W 599.15 feet to the SE corner of said tract; thence S 88°56'40" W 415.0 feet to the SW corner of said tract, described on the East right of way line of STH 59; thence southeasterly along a curve in said right of way line 66.0 feet to the South line of Section 34; thence S 88°56'40" W along said South line to the SW corner of said Section 34; thence westerly along the South line of Section 33, T5N, R15E, to the SW corner of Lot 1 of Certified Survey Map No. 1909 recorded in the Jefferson County Register of Deeds Office in Volume 6 of Certified Survey Maps at page 133; thence North along the West line of Lot 1 of said CSM 1909 to the Northwest corner of said Lot 1 of CSM 1909, said Northwest corner of Lot 1 of CSM 1909 also being the Southwest corner of Lot 1 of Certified Survey Map No. 2744 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 10 of Certified Surveys at page 250; thence North along the West line of Lot 1 of said CSM 2744 to the Northwest corner of Lot 1 of said CSM 2744, said Northwest corner of said Lot 1 of CSM 2744 being a point on the West line of CSM 369 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 2 of Certified Surveys at page 137; thence northerly along the West line of said CSM 369 to the Northwest corner of CSM 369; thence easterly, along the North line of said CSM 369, 558.78 feet more or less to a point on the West right of way line of STH 59; thence northerly along the West right of way line of STH 59 to the point of intersection of said westerly right of way line of STH 59 with the westerly right of way line of County Trunk Highway D; thence northerly along the westerly right of way line of County Trunk Highway D to the North line of Section 33; thence easterly 33 feet more or less along the North line of said Section 33 (said North line of Section 33 also being the South line of Section 28, T5N, R15E), 33 feet more or less to the Southeast corner of Section 28, T5N, R15E; thence North, along the East line of said Section 28, to the East 1/4 corner of said Section 28; thence West along the North line of the Southeast 1/4 of said Section 28 to the Northwest corner of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28; thence South along the West line of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28 to the South line of said Section 28, said South line of said Section 28 also being the North line of Section 33, T5N, R15E; thence westerly, along the North line of said Section 33, to a point 558.47 feet East of the NW corner of said Section 33; thence S 3 degrees 02' 00" W, 891.85 feet to the NE corner of CSM 1514; thence N 88°48'00" W, 517.03 feet along the North line of said CSM to the NW corner of said CSM, said corner being 891.49 feet South of the NW corner of said Section 33 on the West line of said Section 33, said corner also being on the centerline of Fremont Road; thence S 0°21'57" W, 341.12 feet along said centerline; thence S 4°29'00" E, 452.52 feet along said centerline; thence S 3°30'00" E, 203.74 feet along said centerline; thence S 0°19'00" E 226.56 feet along said centerline; thence S 5°07'00" W, 173.31 feet along said centerline to the SW corner of said CSM 1514; thence S 7°34'54" W along said centerline of Fremont Road 323.00 feet more or less to the intersection of said centerline and the West line of said Section 33; thence southerly, along the West line of said Section 33 55.80 feet more or

less to the Southwest corner of the Northwest 1/4 of said Section 33; thence South 86°58'33" West, along the southerly line of the Northeast 1/4 of Section 32, T5N, R15E, 35.58 feet more or less to the West right of way of Fremont Road; thence North 4°47'33" East 315.37 feet more or less along the West right of way of Fremont Road to a point on the East line of the Northeast 1/4 of said Section 32; thence North 01°41'08" West, along the East line of said Northeast 1/4, 102.19 feet more or less to the centerline of the Whitewater River; thence along the centerline of the Whitewater River the following courses: North 42°09'05" West 222.55 feet to a point; thence North 75°19'03" West 56.53 feet to a point; thence North 16°12'25" West 129.26 feet to a point; thence North 08°35'23" East 148.32 feet to a point; thence North 17°45'44" East 85.33 feet to a point; thence North 11°17'11" West 77.56 feet to a point; thence North 54°08'47" West 95.70 feet to a point; thence North 23°33'33" West 58.56 feet to a point; thence North 0°00'00" East 72.60 feet to a point; thence North 26°46'44" East 199.82 feet to a point; thence North 02°51'10" West 87.23 feet to a point; thence North 29°42'47" West 133.49 feet to a point; thence North 20°31'02" West 148.69 feet to a point; thence North 12°45'09" West 127.76 feet to a point; thence North 36°21'17" West 139.35 feet to a point; thence North 18°36'22" West 488.07 feet to a point; thence North 00°03'39" West 174.82 feet more or less to a point 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence South 88°54'19" West 789 feet more or less to a point on the West line of the East 1/2 of the Northeast 1/4 of said Section 32, which point lies 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence southerly along the West line of the East 1/2 of the Northeast 1/4 of said Section 32, 1280 feet more or less to the Northeast corner of the Southwest 1/4 of said Northeast 1/4 of said Section 32; thence N 89°30' W, 1327.66 feet along the North line of said SW 1/4 of said NE 1/4 of said Section 32, to the Northwest corner thereof; thence N 88°40' W, 2060.31 feet along the North line of the South 1/2 of the NW 1/4 of said Section 32 to the NE corner of Block 3 of Twin Oaks Subdivision; thence S 00°44' W along the East line of said Twin Oaks Subdivision, 731.00 feet to the NE corner of Lot 6 of Block 2 of said Twin Oaks Subdivision; thence N 88°40' W along the North line of said Lot 6 190.00 feet to the East line of County Trunk Highway "N" also being the West line of said Block 2; thence S 00°44' W along the West line of said Block 2, 285.00 feet to the SW corner of said Block 2; thence N 88°40' W, 33.00 feet to the centerline of said County Trunk Highway "N"; thence S 00°44' W along said centerline 320.61 feet to the North line of the NW 1/4 of the SW 1/4 of said Section 32; thence Westerly along said North line of said NW 1/4 of said SW 1/4 of said Section 32 to the West 1/4 corner of said Section 32; thence Westerly along the North line of the NE 1/4 of the SE 1/4 of Section 31, T5N, R15E to the NW corner of said NE 1/4 of said SE 1/4; thence Southerly along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, said West line of the East 1/2 of said Southeast 1/4 of said Section 31 being the westerly-most boundary of the City of Whitewater in said Section 31, to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31; thence leaving said westerly-most boundary of the City of Whitewater in Section 31 and running thence Easterly along the South line of Northeast 1/4 of the Southeast 1/4 of said Section 31 and the South line of the Northwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E, through lands located in the City of Whitewater, to the Southeast corner of Lot 29, Park Crest Subdivision, a subdivision located in the City of Whitewater, said Southeast corner of said Lot 29 being the point of beginning of the description of lands (hereinafter referred to as the "Excluded Lands") lying in part in the West 1/2 of the Southwest 1/4 of Section 32 and in part in the East 1/2 of the Southeast 1/4 of Section 31, T5N, R15E, Jefferson County, Wisconsin which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin and lying in part in the Northeast 1/4 of the Northeast 1/4 of Section 6, T4N, R15E, Walworth County, Wisconsin which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence N 00°12'09" E along the East line of Lots 29 and 28 of Park Crest Subdivision 229.62 feet to the northerly-most Northwest corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 89°36'33" E 486.59 feet to a point on the centerline of County Trunk Highway N as originally laid out as a 66-foot wide right of way, said point being the northerly-most Northeast corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 26°36'48" E along said centerline 257.70 feet to the South line of the NW 1/4 of the SW 1/4 of said Section 32; thence continue S 26°36'48" E along said centerline of County Trunk Highway N 395 feet more or less to the point of intersection of said centerline and the westerly extension of the southerly line of Lot 11, South Blooming Field Acres Subdivision; thence N 89°35'24" E 244.12 feet to the Southeast corner of said Lot 11; thence S 00°23'18" E 89.84 feet; thence S 89°37'34" West 199.94 feet to said centerline of County Trunk Highway N; thence S 26°36'48" E along said centerline 73.54 feet; thence N 89°35'59" E 244.17 feet; thence S 00°20'03" E 89.69 feet; thence N 89°30'54" E along the southerly-most line of

Lot 12, South Blooming Field Acres Subdivision to the East line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said East line 180 feet; thence West to said centerline of County Trunk Highway N; thence southeasterly along said centerline to the Southeast corner of Certified Survey Map recorded in Volume 2 of Certified Surveys on Page 205; thence West along the South line of said Certified Survey Map to the West line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said West line 250 feet; thence East 1205.52 feet more or less to said centerline of County Trunk Highway N; thence southeasterly along said centerline to a point on the South line of said Section 32, T5N, R15E, Jefferson County, Wisconsin, said point also being a point on the North line of Section 5, T4N, R15E, Walworth County, Wisconsin, and said point being the southerly-most southeasterly corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence westerly along the North line of Section 5, T4N, R15E, to the NW corner of said Section 5, said NW corner of said Section 5 also being the NE corner of Section 6, T4N, R15E, Walworth County, Wisconsin and said corner also being the NE corner of that portion of the Excluded Lands which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence southerly along the East line of said Section 6, 251.46 feet more or less to a point on the southerly-most line of the lands described in Deed recorded in Volume 619, page 773 (Jefferson County) and Volume 283, page 922 (Walworth County), said point on the southerly-most line of the lands described in said Deed being the southeasterly corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence westerly, along the southerly-most line of the lands described in said Deed, 365 feet more or less to the southwesterly-most corner of the lands described in said Deed, said southwesterly-most corner of the lands described in said Deed being the Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence northerly, along the westerly-most line of the lands described in said Deed, 251.46 feet more or less to the Southwest corner of Section 32, T5N, R15E, Jefferson County, Wisconsin, said Southwest corner of said Section 32 being the Northwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin and also being the southerly-most Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence N 0°24' E, along the West line of the Southwest 1/4 of said Section 32, 292.85 feet; thence West 10.00 feet; thence N 0°24' E, parallel with said West line of said Southwest 1/4 of said Section 32, 260.00 feet to a point on the South line of Lot 1 of Certified Survey Map recorded in Volume 2 of Certified Survey Maps of Jefferson County at page 205; thence westerly, along the South line of said Lot 1, 149.80 feet more or less to the Southwest corner of said Lot 1; thence northerly, along the West line of said Lot 1, 183.24 feet more or less to the Northwest corner of Lot 1; thence easterly, along the northerly line of said Lot 1, 1136.4 feet more or less to a point 5 feet southwesterly of the centerline of C.T.H. "N" as originally laid out as a 6-foot wide right of way; thence northwesterly, along a line drawn parallel to and 5.00 feet southwesterly of said centerline of C.T.H. "N", 441 feet more or less to a point 177.96 feet southerly of the North line of the Southwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E; thence westerly parallel with said North line, 225.60 feet more or less to a point 331.20 feet West of said centerline of C.T.H. "N"; thence northerly 177.96 feet to a point on the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 that lines 240 feet West of said centerline of C.T.H. "N"; thence westerly, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 (also being the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32), to the Southeast corner of Lot 29, Park Crest Subdivision and the ending point of the description of the Excluded Lands; thence leaving the boundary of said Excluded Lands and running westerly, along the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32, and along the South line of the Southeast 1/4 of the Northeast 1/4 of Section 31, T5N, R15E, through lands located in the City of Whitewater to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31, said Southeast corner being a point on the westerly-most boundary of the City of Whitewater in said Section 31; thence southerly, along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, 1330.52 feet more or less to the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 31 (said Southwest corner also being a point on the North line of Section 6, T4N, R15E, Walworth County, Wisconsin); thence westerly along the North line of Section 6, T4N, R15E, to the Northwest corner of said Section 6; thence southerly, along the West line of said Section 6, 123.49 feet; thence continuing southerly, along the West line of said Section 6, said West line also being the centerline of Warner Road, 866.51 feet more or less to the Northwest corner of the parcel described in Volume 669 of Deeds at page 374, Walworth County Register of Deeds; thence easterly, along the North line of said parcel described in Volume 669 of Deeds at page 374, 484 feet more

or less to the northerly most Northwest corner of the parcel described in Volume 307 of Records at page 385, Walworth County Register of Deeds; thence easterly along the North line of said parcel described in Volume 307 of Records at page 385, 325.75 feet more or less to the Northwest corner of Lot 1 of Breidsan Hills Subdivision (subdivision plat recorded as Document No. 334782); thence easterly, along the north line of said Lot 1, 195 feet more or less to the Northwest corner of Lot 2 of Certified Survey Map No. 1871 recorded in Volume 9 of Certified Surveys at page 33; thence easterly, along the north line of said Lot 2 of CSM 1871, 90.57 feet more or less to the Southwest corner of parcel described in Volume 652 of Records, page 8209; thence northwesterly, along the southwesterly line of said parcel, 230.16 feet to the westerly-most corner of said parcel; thence northeasterly, along the northwesterly line of said parcel, 171.04 feet more or less to the southwest right-of-way line of former USH 12/STH 89; thence southeasterly, along said southwest right-of-way line, 477.75 feet more or less to the north line of Lot 2 of Certified Survey Map No. 1871; thence easterly, along said north line, 46.12 feet more or less to the centerline of former USH 12/STH 89; thence southeasterly, along the centerline of Business Highway 12 (formerly US Highway "12") 1410 feet more or less to the northerly-most corner of Certified Survey Map No. 3227 recorded in the Office of the Walworth County Register of Deeds in Volume 18 of Certified Surveys at page 44; thence westerly, along the North line of CSM 3227, 345.43 feet more or less to the Northwest corner of CSM 3227; thence continuing westerly, along the North line of the parcel described in Deed recorded in the Office of the Walworth County Register of Deeds as Document No. 529107, 2239.77 feet more or less to a point on the West line of said Section 6 which lies 999.8 feet North of the West 1/4 corner of said Section 6; thence South along said West line of said Section 6, the centerline of Warner Road, 999.8 feet to the West 1/4 corner of said Section 6; thence S 0°29'07" E, along the West line of the Southwest 1/4 of Section 6, T4N, R15E, 251.14 feet; thence N 89°30'53" E 141.38 feet; thence S 29°39'21" E, along the westerly line of the right of way of U.S. Highway 12, 1892.03 feet; thence S 08°14'40" E, along said westerly line of said U.S. Highway 12 right of way, 690.32 feet; thence S 5°57'24" E, 307.67 feet to a point on the southwesterly line of the right of way of US Highway 12; thence S 13°03'07" E, along said right of way line, 45.77 feet; thence continuing along said right of way line 500.93 feet along a curve to the left having a radius of 728.35 feet and a chord direction of S 34°46'21" E and a chord length of 491.12 feet; thence S 54°28'32" E, along said right of way line, 126.80 feet; thence N 89°24'04" E, along said right of way line, 66.78 feet; thence S 54°52'46" E, along said right of way line, 735.12 feet more or less to a point on a line drawn from the Southeast corner of Lot 1 of Certified Survey Map No. 1099 southerly to a point on the South line of Section 7, T4N, R15E lying 409.00 feet West of the South 1/4 corner of said Section 7; thence southerly, along said line drawn southerly from the Southeast corner of CSM 1099, and the southerly extension thereof, 4276.19 feet more or less to the northwesterly line of the former Chicago, Milwaukee & St. Paul Railroad right of way; thence continuing S 0°18'58" E along said line, 75.25 feet M/L, to the S'ly R/W line of said railroad; thence N 60°58'58" E, along said S'ly R/W line, 2029.25 feet M/L, to the beginning of a tangent curve, concave to the NW and having a radius of 5803.00 feet; thence continuing along said S'ly R/W line and NE'ly along said curve, through a central angle of 10°29'05", an arc distance of 1061.91 feet M/L, to a point of tangency; thence continuing along said S'ly R/W line, N 50°29'53" E, 1635.55 feet M/L, to the NW corner of that certain parcel described in a deed recorded in Vol. 650, Page 8477, records of Walworth Co., WI; thence S 29°45'34" E, along the W'ly line of said parcel, 690.02 feet M/L, to a point on the centerline of State Highway "59"; thence N 29°42'26" E, along said centerline, 510.27 feet M/L to the beginning of a tangent curve, concave to the SE and having a radius of 1206.23 feet; thence NE'ly along said curve and centerline, through a central angle of 14°33'19", an arc distance of 306.43 feet M/L, to a point of tangency; thence northeasterly, along said centerline, 416.29 feet M/L, to the SW corner of that certain parcel of land described in a deed recorded in Vol. 347, page 363, Records of Walworth County; thence S 79 degrees 21'54" E, along the S. line of said parcel, 511.79 feet, to an angle point therein; thence continuing along said S. line, S 59 degrees 08'33" E, 272.80 feet, to a point on the N-S 1/4 line said Sec. 8, said point being 380.19 feet S'ly of the center of said Sec. 8; thence continuing S 59 degrees 08'33" E, 920.81 feet more or less, to a point on the W. line of State Highway "89"; thence N 0 degrees 01'19" W, 357.09 feet more or less, to the NW corner of that certain parcel described in a deed recorded in Vol. 670, page 1339, Records of Walworth County, said corner being described as on the centerline of State Highway "89"; thence S 81 degrees 49'00" E, along the N. line of said parcel, 550.68 feet more or less, to the NW corner of Certified Survey Map No. 489, recorded in Vol. 2, page 311 of Certified Surveys of Walworth County; thence N 68 degrees 59'00" E, along the N'ly line of said CSM, 86.68 feet, to an angle point therein; thence continuing along said N'ly line, S 86 degrees 52'00" E, 355.06 feet, to the NE corner thereof; thence

S 0 degrees 16'43" W, along the E. line of said CSM, 160.00 feet to the Northeast corner of Lot 3 of said CSM 489; thence N 87 degrees 10' W, along the N. line of said Lot 3 of said CSM 489, 153.87 feet to the NW corner of said Lot 3; thence S, along the W. line of said Lot 3, 457.97 feet more or less to a point on the N'yly right of way of Willis Ray Road; thence continue S 33.01 feet more or less to the centerline of Willis Ray Road, said centerline being the S'yly boundary of said CSM 489; thence S 86 degrees 23' E, along said centerline of Willis Ray Road and said S'yly line of said CSM 489, 153.99 feet to the SE corner of said CSM 489; thence N, along the E'yly line of said CSM 489, 147.88 feet; thence S 86 degrees 06'06" E (recorded as parallel to the centerline of Willis Ray Road) 856.31 feet, to a point on the E. line of said Section 8, said point being 110.59 feet N'yly of the SE corner of the NE 1/4, SE 1/4, said Section 8; thence N 0 degrees 56'05" E, along the E. line of said Section 8, 1208.78 feet, to the E 1/4 corner, Section 8; thence Easterly along the E-W 1/4 line of Sections 9 and 10 to the center of said Section 10, T4N, R15E; thence northerly, along the N-S 1/4 line of Section 10, T4N, R15E, 6 chains; thence East along a line drawn parallel to the South line of the Northeast 1/4 of said Section 10, to the Northwest corner of Lot 1 of Certified Survey Map No. 1643 recorded in the Walworth County Register of Deeds Office as Document No. 155915; thence easterly along the northerly-most line of said Lot 1 of said CSM 1643 to the northerly-most Northeast corner of said Lot 1, said northerly-most Northeast corner of said Lot 1 of CSM 1643 also being the Northwest corner of Certified Survey Map No. 1010 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at page 285 as Document No. 56192; thence easterly along the North line of said CSM 1010 to a point on the centerline of Old Highway P; thence northwesterly along the centerline of Old Highway P to the Southeast corner of Certified Survey Map No. 2616 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 13 of Certified Surveys at page 139 as Document No. 310254; thence southwestwardly along the southeasterly line of said CSM 2616 to the Southwest corner of said CSM 2616; thence northwesterly along the southwesterly line of said CSM 2616 to the Northwest corner of said CSM 2616; thence northwesterly along the northwesterly line of said CSM 2616, 389.86 feet more or less to a point on the southwesterly right of way line of Old Highway P; thence northwesterly along the southwesterly right of way line of Old Highway P to a point where the southwesterly right of way line of Old Highway P intersects with the southerly right of way line of State Trunk Highway 59 (formerly U.S. Highway 12); thence northwesterly along said southerly right of way line of Highway 59 to a point which lies N 73°41' E 1112.00 feet more or less from a point on the West line of Northeast 1/4 of Section 10, T4N, R15E located 1325.94 feet South of the North 1/4 corner of said Section 10; thence N 41°58' W along the southerly right of way line of said State Trunk Highway 59 (also referred to as Elkhorn Road and formerly known as U.S. Highway 12) 406 feet more or less to the southeasterly boundary of an existing parcel; thence S 48°02' W 323 feet; thence N 41°58' W 150 feet; thence N 48°02' E 356 feet to the centerline of State Trunk Highway 59 (formerly U.S. Highway 12); thence N 41°58' W along the centerline of said highway 787.40 feet to the North line of said Section 10; thence S 87°37' W 193.38 feet along the North line of said Section 10 to the North 1/4 corner of said Section 10; thence N 3°08'18" W, along the N-S 1/4 line of Section 3, T4N, R15E to the point of intersection of said N-S 1/4 line with the centerline of State Trunk Highway 59/Elkhorn Road (formerly United States Highway 12); thence southeasterly along said centerline to the point of intersection of said centerline and the southwesterly extension of the Northwest line of the public road Sunrise Lane; thence N 45°19'42" E along the Northwest line of Sunrise Lane, 126.59 feet to the Southwest corner of Lot 1 of CSM 1292; thence N 3°08'18" W, 237.00 feet to the Northwest corner of said Lot 1 of CSM 1292; thence N 85°39'12" E, 403.50 feet to the Northeast corner of said lot; thence S 3°08'18" E, 237.00 feet to the North line of Outlot 1, CSM 2620 thence N 85°39'12" E along said North line 209.86 feet to the Northeast corner of said Outlot 1; thence S 4°22'43" E, 66.00 feet to the Southeast corner of said Outlot 1, said corner being the Northeast corner of Lot 1, of said CSM 2620; thence continuing S 4°22'43" E along the East line of said CSM 2620, 236.09 feet to the Southeast corner of said Lot 1, said corner being on the South line of said Section 3, 720 feet more or less East of the South 1/4 corner of said Section 3; thence West along the South line of said Section 3 (the South line of said Section 3 also being the North line of Section 10, T4N, R15E) 479.58 feet more or less to the northerly right of way line of State Trunk Highway 59 (also sometimes referred to as Elkhorn Road and formerly designated as U.S. Highway 12); thence southeasterly along the northerly right of way line of said highway 536.38 feet more or less to a point on the North line of Certified Survey Map No. 503 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 2 of Certified Surveys on page 333 as Document No. 694000; thence East along the North line of said CSM 503 430.95 feet to the Northeast corner of said CSM 503; thence South along the East line of said CSM 503 235.98 feet to the

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Southeast corner of said CSM 503; thence West along the South line of said CSM 503 266.34 feet more or less to the centerline of State Trunk Highway 59 (formerly US Highway 12); thence southeasterly along the centerline of the road that existed and was known and designated as United States Highway 12 prior to construction of the US Highway 12 By-Pass of the City of Whitewater to the intersection of said former centerline and the East line of said Section 10, said point of intersection being approximately 145.5 feet more or less North of the East 1/4 corner of said Section 10; thence North along the East line of said Section 10 to the NE corner of said Section 10; thence continuing North along the East line of Section 3, T4N, R15E, 728.24 feet to the Northeast corner of Walton's Pine Bluff Subdivision; thence S 88°32'30" W along the North line of Walton's Pine Bluff Subdivision 147.41 feet to the Southeast corner of Lot 7, Pine Bluff Subdivision; thence N 00°00'00" E 333.29 feet to the Northeast corner of Lot 4 of Pine Bluff Subdivision; thence S 79°14'04" E 27.00 feet to the Southeast corner of Lot 3 of Pine Bluff Subdivision; thence N 00°00'02" E to the Northeast corner of Lot 1 of Pine Bluff Subdivision; thence continue N 00°00'02" E 35 feet more or less to the centerline of Bluff Road; thence easterly along the centerline of Bluff Road to the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3, the centerline of Howard Rd., to the point of intersection of said centerline with the E-W 1/4 line of said Section 3; thence West along said E-W 1/4 line 466.51 feet; thence N 01°13' E, 374.66 feet; thence East, parallel with said E-W 1/4 line of said Section 3, 466.51 feet to the East line of said Section 3 and the centerline of Howard Road; thence South along the West line of Section 2, T4N, R15E (said West line of Section 2 also being the East line of Section 3, T4N, R15E) and the centerline of Howard Road 341.66 feet more or less to a point on the West line of said Section 2 lying 33 feet North of the West 1/4 corner of said Section 2; thence easterly, parallel with the East-West 1/4 line of said Section 2 33 feet; thence southerly parallel to the West line of said Section 2, 33 feet to the East-West 1/4 line of said Section 2; thence East, along the East-West 1/4 line of said Section 2, 549 feet more or less to a point on said East-West 1/4 Section line which lies 582 feet East of the West 1/4 corner of said Section 2; thence South, parallel with the West line of the Southwest 1/4 of said Section 2, said West line also being the centerline of Howard Road, 883.51 feet; thence West, parallel with the East-West 1/4 line of said Section 2, 356 feet; thence South, parallel with the West line of said Southwest 1/4 of Section 2 162 feet to the northerly line of the Wisconsin & Southern Railroad right of way; thence easterly along the northerly line of the said railroad right of way to the North-South 1/4 line of said Section 2; thence North along the said North-South 1/4 line of said Section 2 to the Northeast corner of the South 1/2 of the Northwest 1/4 of said Section 2; thence West along the North line of the South 1/2 of the Northwest 1/4 of said Section 2 to the Northeast corner of Certified Survey Map No. 1480 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 7 of Certified Surveys on Page 56; thence southerly along the East line of said CSM 1480 to the Southeast corner of said CSM 1480, said Southeast corner of CSM 1480 also being the Northeast corner of Lot 2 of Certified Survey Map No. 906 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at Page 133; thence South along the East line of Lot 2 of said Certified Survey Map No. 906 222.87 feet more or less to the Southeast corner of Lot 2 of said Certified Survey Map No. 906; thence West along the South line of Lot 2 of said CSM 906 179.48 feet more or less to the easterly right of way line of Howard Road; thence continuing westerly 33 feet more or less to the centerline of Howard Road, said centerline also being the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3 to a point 1670.46 feet north of the East 1/4 corner of said Section 3; thence S 89°45' W, 357.00 feet; thence North, parallel with said East line of said Section 3, 702.70 feet; thence N 89°45' E, 357.00 feet to the said East line of said Section 3; thence North along said East line to the NE corner of said Section 3.

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

Ordinance introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Nosek,, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: March 3, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**SECOND READING OF ORDINANCE AMENDING CH. 5.20, TO REQUIRE THOSE WITH "CLASS B" ALCOHOL LICENSES TO BE OPEN A MINIMUM NUMBER OF HOURS PER YEAR.**

**ORDINANCE NO. 1720**  
**ORDINANCE AMENDING SECTION 5.20.032 OF THE WHITEWATER MUNICIPAL CODE**  
**REGARDING ALCOHOL LICENSES**

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

**SECTION 1.** Section 5.20.032 of the Whitewater Municipal Code Chapter 5.20 is hereby amended to read as follows:

A. Findings of Fact and Purpose. The Common Council finds that the nonuse of alcohol licenses that are available in limited numbers is generally contrary to the public's best interest. This is because alcohol licenses, if used responsibly, can attract and retain businesses such as restaurants and hotels, and thereby create jobs and provide non-alcohol-related entertainment and service opportunities for the general public. Furthermore, the nonuse of alcohol licenses, limited by quotas, is unfair to persons or businesses that seek to earn income through the use of a license, but are unable to receive a license because of the limited number available to be issued by the City.

B. Cancellation For Non Use. Any "Class A" or "Class B" license granted under this chapter may be cancelled by the common council 1) if it is not used within sixty days after its initial issuance (this 60 day non use provision applies only to initial license issuance and does not apply to license renewals); 2) if its usage is discontinued for a period of ninety consecutive days or more; 3) if the holder does not use the license for at least fifty (50) days during the one-year period of the license term; 4) if the licensee does not open and use its license on the minimum days and hours it submits under paragraph C three or more times during a license term.

For the purpose of this ordinance, a day within the yearly license term shall be defined as a day during which the license grantee or holder is open for business and therein uses the License for a minimum period of six (6) hours. Said hours shall be consecutive on the particular day. In order to be considered open, a "Class B" licensed premises must have a licensed bartender on duty and available and present on the premises to dispense alcohol. If there are two licensed premises in any one building, each premises must have a separate bartender available, present, and on duty during the time the premises is required to be open.

C. Reporting Requirements: Each "Class A" or "Class B" licensed premises shall complete a form as part of the initial and annual renewal application process that lists the specific days of the week and specific hours it represents will be open which satisfies the minimum opening and use requirements set forth above. If any licensee changes its minimum required days or hours of operation stated in the application, the licensee shall immediately report the change in writing to the municipal clerk. Licensees are not required to disclose all hours it or they expect to be open, rather only those mandatory minimum hours it will be open.

D. Exceptions: In the event the grantee or holder of a "Class A" or "Class B" license issued under this Chapter demonstrates to the satisfaction of the City Council that, due to undue hardship or unusual circumstances beyond the grantee's or holder's control, the grantee or holder could not meet the minimum use requirements set forth herein within the yearly term of the license, the license grantee or holder may request that the City Council grant an exception to the requirements found in paragraphs B and C above. Exceptions which the City Council may consider in not imposing the requirements of paragraphs B and C are the following:

- (1) Damage to the licensed premises rendering it temporarily unfit for safe operation under the license;
- (2) Closing for reasonable periods of time to alter, repair, remodel or redecorate the premises;
- (3) Certain factors of death, illness or contractual impossibility;

(4) Any other unusual circumstances not under the control of the license grantee or holder.

E. Investigations and inspections to determine compliance with this section may be conducted by the City of Whitewater Police Department, or any City employee or official directed by the City Manager to conduct an investigation or inspection to determine compliance. If a licensee is found to be in violation of the terms of this section, future inspections shall subject the licensee to the imposition of re-inspection fees under Chapter 1.29. Violations of this section shall also subject a licensee to the imposition of the penalties set forth in Section 5.20.160.

F. Prior to Cancellation: Prior to the cancellation of any license, the city shall notify the licensee in writing of the city's intention to cancel the license for non-use and provide the licensee with an opportunity for a due process hearing. Such hearing shall be conducted by the Alcohol License Review Committee generally under the procedures set forth in Whitewater Municipal Code 5.20.025.

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Taylor. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: March 3, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**SECOND READING OF AN ORDINANCE AMENDING CHAPTER 5.20 TO LIMIT THE MAXIMUM NUMBER OF ALCOHOL LICENSES IN ANY SINGLE BUILDING.**

**ORDINANCE NO. 1721**

**ORDINANCE AMENDING CHAPTER 5.20 OF THE WHITEWATER MUNICIPAL CODE REGARDING LIMITING THE NUMBER OF ALCOHOL LICENSES IN ANY SINGLE BUILDING**

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

**SECTION 1.** Whitewater Municipal Code Chapter 5.20, Section 5.20.045, is hereby created to read as follows:

**5.20.045 Maximum Number of Licenses.**

A. The Common Council finds that limiting the number of alcohol licenses in one building is in the public's best interest because it will assure that there will not be an unnecessary use of two alcohol licenses for a building when one alcohol license could serve the building.

B. The total maximum number of "Class A" and "Class B" licenses issued to premises in any single building shall be limited to two. Also, no building shall be allowed to have more than one "Class A" or more than one "Class B" license. Therefore, when a "Class A" or "Class B" license is issued to a building, no other license of the same class shall be issued to a premises in the same building. If the Council finds that it is in the public's best interests, the Council may grant exceptions to these limitations. For the purpose of this Section, a combination license issued to a premises shall be considered one license.

Ordinance introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: March 3, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**REPORT ON RECYCLING ORDINANCE ENFORCEMENT.** DPW Director Fischer reported that a total of seven commercial/multi-family property owners, owning 22 properties, were not in compliance with the requirement to provide recycling facilities. Fischer stated that since a letter was sent to the parties,

five of the property owners responded and it has been verified they are in compliance. One property owner with one property plus one property owner with fifteen properties were contacted by Fischer. The owner of the 15 properties has ordered dumpsters for recycling. It will take some time as the dumpsters need to be constructed. The remaining property owner will be contacted again by Fischer. Councilmember Nosek believes that more than one recycling dumpster is needed at various locations. No further action was taken on the matter.

**HIRING FREEZE OF PERMANENT FULL AND PART TIME POSITIONS.** Brunner stated that Statutes authorize the City Manager to institute hiring freezes, but he wanted to bring it to the Council. Brunner recommended freezing hires to allow update of the City's strategic Plan with an emphasis on determining future spending priorities for the City before positions must be filled; the State has announced a 1% reduction in the total amount of state shared revenues to municipalities, the exact amount of which will not be known until August; and the fact that there are some possible federal funding opportunities. It was announced that further research has shown that the City cannot apply for grant funding for a police position that is already approved. Brunner feels a hiring freeze is prudent. City Attorney McDonell indicated that he agrees with Brunner that the City Manager is authorized to institute a hiring freeze and consequently it is his opinion that any direction from Common Council would be non-binding. It was moved by Singer and seconded by Taylor to support ht hiring freeze through August 1, but urge the City manager to exempt all sworn personnel openings in the Police Department. AYES: Singer, Taylor. NOES: Allen, B9innie, Kienbaum, Nosek, Stewart. It was moved by Binnie and seconded by Stewart to support the hiring freeze with the understanding that only one Police position would be subject to the freeze. AYES: Allen, Binnie, Kienbaum, Nosek, Singer, Stewart. NO: Taylor

**CONTRACT WITH STRAND ASSOCIATES FOR WHITON AND MAIN STREET TRAFFIC ENGINEERING.** It was moved by Binnie and seconded by Stewart to approve the contract with Strand Associates for the Whiton and Main Street traffic engineering. It was then moved by Nosek and seconded by Binnie to construct a stoplight only after and unless the City Manager is able to negotiate a shared cost agreement with the University, which will then be approved by the Common Council. A vote was taken on the amendment: AYES: Nosek. NOES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. ABSENT: None. *Amendment fails.* A vote was then taken on the original motion, to approve the contract with Strand Associates for the Whiton and Main Street traffic engineering. AYES: Allen, Taylor, Nosek, Singer, Stewart. NOES: Binnie, Kienbaum. ABSENT: None.

**REQUESTS FOR FUTURE AGENDA ITEMS:** Councilmember Taylor requested information on authorizing a referendum relating to exceeding of levy limits.

**EXECUTIVE SESSION.** It was moved by Singer and seconded by Allen to ADJOURN TO CLOSED SESSION pursuant to Chapter 19.85(1)(c) "(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." Item to be Discussed: Extension of South Whitewater Multi-Use Trail and Discussions with Town of Whitewater. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. The regular portion of the meeting adjourned at 7:58 p.m.

Respectfully submitted,

Michele R. Smith, Clerk

## ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE COMMON COUNCIL OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN

March 17, 2009

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: No.

It was moved by Allen and seconded by Taylor to acknowledge receipt and filing of February 2009 financial statements; the Plan Commission minutes of 4/28/08, 5/19/08 and 2/23/09; and the Library Board minutes of 2/9/09. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

**APPROVAL OF PAYMENT OF INVOICES PROCESSED THROUGH MARCH 12, 2009.** It was moved by Allen and seconded by Taylor to approve payment of invoices in the total sum of \$133,514.51. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

**STAFF REPORTS.** Brunner presented information on the Technical Park, which was organized late in 2008. Brunner also announced that the City would be applying for numerous economic stimulus grants. Library Director Lunsford provided an update on the Library Addition.

**HEARING OF CITIZEN COMMENTS.** Cody Horlacher of UW-Whitewater Student Government, invited councilmembers to a forum on April 1 as part of Government Week.

**COMMON COUNCIL ANNOUNCEMENTS.** Nosek retracted a statement he made which indicated that there were no visible warnings for pedestrians crossing Main Street at the University area crosswalks. He stated that there are small flashing lights on one side of the street for each direction of crossing but that this is not enough.

**FIRST READING OF ORDINANCE AMENDING CHAPTER 11 RELATING TO PARKING LIMITATIONS ON CONGER STREET.** Brunner stated that this change was requested by Conger Street residents and is supported by staff.

### **AN ORDINANCE AMENDING CHAPTER 11.16.150, STREET INDEX OF PARKING LIMITATIONS.**

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

**SECTION 1.** Whitewater Municipal Code Section 11.16.150 entitled "Street Index of Parking Limitations," is hereby amended as follows:

**The following shall be *deleted* from the Street Index of Parking Limitations:**

Conger Street	South side; from Summit to S. Whiton	11.16.080	No Parking
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**The following shall be added to the Street Index of Parking Limitations:**

Conger Street	South side; from the east curblin of Whiton, East, for a distance of 160 feet	11.16.080	No Parking
Conger Street	South side; from west curblin of Summit St. West for a distance of 256 feet	11.16.090	No Parking 2:00 a.m. – 5:00 a.m.

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

Ordinance introduced by Councilmember Taylor who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

Ordinance introduced by Councilmember Taylor who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**FIRST READING OF ORDINANCE ADOPTING REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION – CHRONIC NUISANCE ORDINANCE.** This item was removed from the Council Agenda by Councilmember Allen, to be discussed at a future date.

**FIRST READING OF ADOPTION OF FLOOD PLAIN ORDINANCE.** Brunner indicated that this ordinance was unanimously accepted and approved by the Plan Commission's Public Hearing. Passage of this ordinance is required by FEMA in order for the City to participate in the National Flood Insurance Program. The ordinance sets forth the area to be regulated in the floodplain and permitted uses, prohibited uses, development regulations and conditional uses. The map related only to the Jefferson County portion of the City.

**FLOOD PLAIN REGULATIONS AND  
RE-ENACTING A NEW FLOODPLAIN ORDINANCE**

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

**SECTION 1:** Whitewater Municipal Code Chapter 19.46 Flood Plain Regulations is hereby repealed and re-enacted as follows:

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**1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS**

**1.1 STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

**1.2 FINDING OF FACT**

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

### 1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

### 1.4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for the City of Whitewater, Wisconsin.

### 1.5 GENERAL PROVISIONS

#### (1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

#### (2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Whitewater Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Public Works Department, City of Whitewater. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS: Based on the FIS

- (a) For Jefferson County Flood Insurance Rate Maps (FIRM), panel numbers 55055C0432E, 55055C0451E and 55055C0455E, dated June 2, 2009, with corresponding profiles based on the Flood Insurance Study (FIS) dated June 2, 2009 volume number 55055CV000A;

(b) For Walworth County Flood Insurance Rate Maps (FIRM), panel numbers 5502000002B and 5502000004B, dated June 1, 1982, with corresponding profiles based on the Flood Insurance Study (FIS) dated December 1, 1981 volume number 550200V000;

### (3) ESTABLISHMENT OF DISTRICTS

The regional floodplain areas are divided into three districts as follows:

- (a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (c) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
- (d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

### (4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below.

- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 8.1 (6).

### (5) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0.

**Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

### (6) COMPLIANCE

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

## (7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

## (8) ABROGATION AND GREATER RESTRICTIONS

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; or s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

## (9) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

## (10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

## (11) SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

## (12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Walworth and Jefferson County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

## (13) GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

## **2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

### **2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

(1) Except as allowed in par. (3) below, no floodplain development shall:

(a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

(b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

(3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

**Note:** This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

### **2.2 WATERCOURSE ALTERATIONS**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

### **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 8.0.

### **2.4 PUBLIC OR PRIVATE CAMPGROUNDS**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health and Family Services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

### **3.0 FLOODWAY DISTRICT (FW)**

#### **3.1 APPLICABILITY**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.1(4).

#### **3.2 PERMITTED USES**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- they are not prohibited by any other ordinance;
- they meet the standards in s. 3.3 and 3.4; and
- all permits or certificates have been issued according to s. 7.1;

- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
- (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 3.3(3).

### 3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

#### (1) GENERAL

- (a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:
  1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

#### (2) STRUCTURES

Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (a) The structure is not designed for human habitation and does not have a high flood damage potential;
- (b) It must be anchored to resist flotation, collapse and lateral movement;
- (c) mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
- (d) it must not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

**(3) PUBLIC UTILITIES, STREETS AND BRIDGES**

Public utilities, streets and bridges may be allowed by permit, if:

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of s. 2.1.

**(3) FILLS OR DEPOSITION OF MATERIALS**

Fills or deposition of materials may be allowed by permit, if:

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (d) The fill is not classified as a solid or hazardous material.

**3.4 PROHIBITED USES**

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

**4.0 FLOODFRINGE DISTRICT (FF)****4.1 APPLICABILITY**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.1(4).

## 4.2 PERMITTED USES

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

## 4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

S. 2.1 shall apply in addition to the following requirements according to the use requested.

### (1) RESIDENTIAL USES

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

(a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical;

(b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

(c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).

(d) Developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

### (2) ACCESSORY STRUCTURES OR USES

(a) Except as provided in par. (b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of sections 3.3 (2) (a), (b), (c) and (d) and 4.3 (5) below.

### (3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;

(b) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All on-site sewage disposal systems shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

(8) WELLS

All wells shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

11) MANUFACTURED HOMES

(a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

1. have the lowest floor elevated to the flood protection elevation; and
2. be anchored so they do not float, collapse or move laterally during a flood.

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

5.0 OTHER FLOODPLAIN DISTRICTS

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

5.1 GENERAL FLOODPLAIN DISTRICT (GFP)

(1) APPLICABILITY

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

(2) PERMITTED USES

Pursuant to s. 5.1(4), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

(4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The rest of this ordinance applies to either district.

(4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
  1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
  3. Profile showing the slope of the bottom of the channel or flow line of the stream;
  4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (e) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

## 5.2 FLOOD STORAGE DISTRICT

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

### (1) APPLICABILITY

The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

### (2) PERMITTED USES

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 4.3.

### (3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

- (a) Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a foot in the height of the regional flood.
- (b) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (c) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per s. 8.1 of this ordinance.
- (d) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

## 6.0 NONCONFORMING USES

### 6.1 GENERAL

#### (1) APPLICABILITY

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

## 6.2 FLOODWAY AREAS

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
- (a) Has been granted a permit or variance which meets all ordinance requirements;
  - (b) Meets the requirements of s. 6.1;
  - (c) Will not increase the obstruction to flood flows or regional flood height;
  - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation;
  - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    4. The use must be limited to parking or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

## 6.3 FLOODFRINGE AREAS

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in ss. 4.3 and 7.5, except where s. 6.3(2) is applicable.
- (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below.

Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) Human lives are not endangered;
  - (c) Public facilities, such as water or sewer, will not be installed;
  - (d) Flood depths will not exceed two feet;
  - (e) Flood velocities will not exceed two feet per second; and
  - (f) The structure will not be used for storage of materials as described in s. 4.3(6).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- (a) Meets all other regulations and will be granted by permit or variance;
  - (b) Does not exceed 60 square feet in area; and
  - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

## **6.4 FLOOD STORAGE AREAS**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 5.2(3) are met.

## **7.0 ADMINISTRATION**

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

## **7.1 ZONING ADMINISTRATOR**

(1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

(bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(c) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
4. All substantial damage assessment reports for floodplain structures.

(d) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(e) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(f) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

## (2) LAND USE PERMIT

A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;

2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

#### (c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
  - a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
  - b. A map showing location and details of vehicular access to lands outside the floodplain; and
  - c. A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

#### (d) EXPIRATION

All permits issued under the authority of this ordinance shall expire 365 days after issuance.

#### (3) CERTIFICATE OF COMPLIANCE

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit;
- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of s. 7.5.

#### (4) OTHER PERMITS

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

### 7.2 ZONING AGENCY

- (1) The City of Whitewater Plan and Architectural review commission shall:
  - (a) oversee the functions of the office of the zoning administrator; and
  - (b) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (2) This zoning agency shall not
  - (a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
  - (b) amend the text or zoning maps in place of official action by the Governing body.

### 7.3 BOARD OF ADJUSTMENT/APPEALS

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

#### (1) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

- (a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

## (2) APPEALS TO THE BOARD

(a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

### (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3).
- b. Decide variance applications according to s. 7.3(4).
- c. Decide appeals of permit denials according to s. 7.4.

(b) DECISION: The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;
2. Be sent to the Department Regional office within 10 days of the decision;
3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

## (3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

- (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

(4) VARIANCE

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  - 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - 3. The variance is not contrary to the public interest; and
  - 4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
  - 1. The variance may not cause any increase in the regional flood elevation;
  - 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  - 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (c) A variance shall not:
  - 1. Grant, extend or increase any use prohibited in the zoning district.
  - 2. Be granted for a hardship based solely on an economic gain or loss.
  - 3. Be granted for a hardship which is self-created.
  - 4. Damage the rights or property values of other persons in the area.
  - 5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.1.
  - 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

## **7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in s. 7.1(2).
  - (b) Floodway/floodfringe determination data in s. 5.1(4).
  - (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.
  - (e) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
  - (a) Follow the procedures of s. 7.3;
  - (b) Consider zoning agency recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
  - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

## **7.5 FLOODPROOFING**

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
  - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (b) Protect structures to the flood protection elevation;
  - (c) Anchor structures to foundations to resist flotation and lateral movement; and
  - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
  - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - (b) Adding mass or weight to prevent flotation.

- (c) Placing essential utilities above the flood protection elevation.
- (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
- (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
- (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

## 7.6 PUBLIC INFORMATION

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

## 8.0 AMENDMENTS

### 8.1 GENERAL

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

**Note:** Consult the FEMA web site - [www.fema.gov](http://www.fema.gov) - for the map change fee schedule.

### 8.2 PROCEDURES

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 5.1(4) and 7.1(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 1.5(4).)

## 9.0 **ENFORCEMENT AND PENALTIES**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ 200 and not more than \$ 300, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

## 10.0 **DEFINITIONS**

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- 1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- 2) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- 3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- 4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 5) "BUILDING" - See STRUCTURE.
- 6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- 7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- 8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- 9) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the

provisions of this ordinance.

- 10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- 12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads
- 18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
  - ✓ The overflow or rise of inland waters,
  - ✓ The rapid accumulation or runoff of surface waters from any source,

- ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
  - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
  - 23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
  - 24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
  - 25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
  - 26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
  - 27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
  - 28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
  - 29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
  - 30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
  - 31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
  - 32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
  - 33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
  - 34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those

calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

- 35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 38) "HISTORIC STRUCTURE" - Any structure that is either:
- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
  - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
  - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
  - ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- 39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

- 44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1988 adjustment.
- 45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- 51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have

occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 59) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 63) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 67) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless

Ordinance introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Nosek. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. FIRST READING APPROVED: March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**FIRST READING OF ORDINANCE ASSIGNING RECOMMENDATION FOR BOARD AND COMMISSION MEMBERS TO CITY MANAGER AND COMMON COUNCIL PRESIDENT.**

The current ordinance required the Nomination Committee to review applications from citizens interested in serving on Boards and Commissions, and that Committee subsequently makes recommendations to the Council. Councilmember Allen stated that having the City Manager and Council President make these recommendations would be more transparent. Taylor questioned whether there was enough time to initiate the new process by election time. Nosek felt that council should not have an undue influence on citizen appointments and approves of the change. Kienbaum stated that councilmembers are representatives of the city and their voice is necessary to recommend citizens to committees. She also feels that the City Manager is becoming overburdened with duties. Allen replied that the Council need not accept the appointments by the City Manager and Council President. Binnie questioned whether the Nominations Committee was less transparent than having the City Manager and Council President make recommendations to Council. It was moved by Stewart and seconded by Nosek to remove the words "Common Council President" from the ordinance. AYES: Nosek, Binnie, Stewart. NOES: Allen, Taylor, Singer, Kienbaum. AMENDMENT FAILED.

**AN ORDINANCE AMENDING CHAPTER 2.12 OF THE  
CITY OF WHITEWATER MUNICIPAL CODE  
REGARDING APPOINTMENT OF BOARDS,  
COMMISSION AND COMMITTEE MEMBERS**

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

**Section 1:** Chapter 2.12 Subsection 2.12.011 of the City of Whitewater Municipal Code is hereby amended to read as follows:

2.12.011 Appointment of Board, Commission and Committee Members.

(a) The City Manager and the Common Council President shall review all board, commission and committee applicants and recommend nominees to the Common Council.

(b) After considering the candidates nominated to the various boards, commissions, and committees, the Common Council shall appoint the members of said boards, commissions, or committees.

Ordinance introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Taylor. AYES: Allen, Taylor, Nosek, Binnie, Singer. NOES: Kienbaum, Stewart. FIRST READING APPROVED: March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**SECOND READING OF ADOPTION OF MUNICIPAL BOUNDARY ORDINANCE.**

## ORDINANCE NO. 1722

### AN ORDINANCE AMENDING CHAPTER 1.24 ENTITLED "CITY LIMITS"

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

SECTION 1: Whitewater Municipal Code Section 1.24.010 is hereby amended to read as follows:

City Boundaries: All that territory and section of county described as follows shall constitute the extent and limits of the City of Whitewater:

All that territory and section of Walworth and Jefferson Counties, Wisconsin described as follows shall constitute the extent and limits of the City of Whitewater:

Beginning at the NE corner of Section 3, T4N, R15E, thence West along the North line of said Section 3, 65.5 feet more or less, to the SE corner of Section 34, T5N, R15E; thence North along the East line of said Section 34, to a point 2474.96 feet South of the East 1/4 corner of said Section 34; said point being the SE corner of Certified Survey Map 2436; thence westerly 333.90 feet along the South line of said Certified Survey Map; thence North 391.37 feet along the West line of said Certified Survey Map; thence East 333.90 feet along the North line of said Certified Survey Map to the East line of said Section; thence North along the East line of said Section 34 2083.59 feet to the East 1/4 corner of said Section 34; thence West along the South line of the Northeast 1/4 of said Section 34 to its intersection with the southerly extension of the West line of the Plat of Crestwood Heights as recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 8 of Plats on page 32; thence northerly along said extension and the West line of said Crestwood Heights to the Northwest corner of Crestwood Heights; thence southeasterly along the North line of Crestwood Heights 504.59 feet to an angle point in the northerly line of Lot 10 of Crestwood Heights; thence S 74°43' E along the North line of Crestwood Heights 216.18 feet to the Northeast corner of Lot 10 of Crestwood Heights; thence continuing S 74°43' E 1292.16 feet more or less to the East line of the Northeast 1/4 of said Section 34; thence North along the East line of the Northeast 1/4 of said Section 34 to a point lying 572.3 feet South of the Northeast corner of said Section 34; thence N 85°20' W 779.0 feet; thence N 0°31' E 510.7 feet to a point on the North line of said Section 34 which lies 771.1 feet West of the Northeast corner of said Section 34; thence West along the North line of the Northeast 1/4 of said Section 34 to the North 1/4 corner of said Section 34; thence westerly and southwesterly along the centerline of State Trunk Highway 59 to the point of intersection of said centerline and the westerly extension of the northerly-most line of Lot 1 of Certified Survey Map No. 3197 recorded in the Office of the Jefferson County Register of Deeds in Volume 13 of Certified Surveys at page 249; thence N 84°51'50" E, along said extension of the northerly-most line of said Lot 1, to the East right of way line of STH 59; thence southerly along said right of way 1368.94 feet, as described on CSM #3197, to the NW corner of an existing parcel; thence S 84°19'20" E along the North line of said parcel 179.91 feet; thence N 1°20'45" W 2.0 feet; thence S 84°02'15" E 432.77 feet to the NE corner of said parcel; thence S 0°22'15" E 194.44 feet to the SE corner of said parcel; thence N 86°27'10" W 607.71 feet to the SW corner

of said parcel, said corner described on the East right of way line of STH 59; thence S 11°30'15" E along said right of way line 152.76 feet; thence S 1°19'25" E along said right of way line 976.83 feet; thence southeasterly along a curve in said right of way line 665.86 feet; thence S 11°28'15" E along said right of way line 210.31 feet to the NW corner of an existing tract; thence N 78°31'45" E 535.85 feet to the NE corner of said tract; thence S 11°28'15" E 417.39 feet; thence S 3°09'45" W 599.15 feet to the SE corner of said tract; thence S 88°56'40" W 415.0 feet to the SW corner of said tract, described on the East right of way line of STH 59; thence southeasterly along a curve in said right of way line 66.0 feet to the South line of Section 34; thence S 88°56'40" W along said South line to the SW corner of said Section 34; thence westerly along the South line of Section 33, T5N, R15E, to the SW corner of Lot 1 of Certified Survey Map No. 1909 recorded in the Jefferson County Register of Deeds Office in Volume 6 of Certified Survey Maps at page 133; thence North along the West line of Lot 1 of said CSM 1909 to the Northwest corner of said Lot 1 of CSM 1909, said Northwest corner of Lot 1 of CSM 1909 also being the Southwest corner of Lot 1 of Certified Survey Map No. 2744 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 10 of Certified Surveys at page 250; thence North along the West line of Lot 1 of said CSM 2744 to the Northwest corner of Lot 1 of said CSM 2744, said Northwest corner of said Lot 1 of CSM 2744 being a point on the West line of CSM 369 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 2 of Certified Surveys at page 137; thence northerly along the West line of said CSM 369 to the Northwest corner of CSM 369; thence easterly, along the North line of said CSM 369, 558.78 feet more or less to a point on the West right of way line of STH 59; thence northerly along the West right of way line of STH 59 to the point of intersection of said westerly right of way line of STH 59 with the westerly right of way line of County Trunk Highway D; thence northerly along the westerly right of way line of County Trunk Highway D to the North line of Section 33; thence easterly 33 feet more or less along the North line of said Section 33 (said North line of Section 33 also being the South line of Section 28, T5N, R15E), 33 feet more or less to the Southeast corner of Section 28, T5N, R15E; thence North, along the East line of said Section 28, to the East 1/4 corner of said Section 28; thence West along the North line of the Southeast 1/4 of said Section 28 to the Northwest corner of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28; thence South along the West line of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28 to the South line of said Section 28, said South line of said Section 28 also being the North line of Section 33, T5N, R15E; thence westerly, along the North line of said Section 33, to a point 558.47 feet East of the NW corner of said Section 33; thence S 3 degrees 02' 00" W, 891.85 feet to the NE corner of CSM 1514; thence N 88°48'00" W, 517.03 feet along the North line of said CSM to the NW corner of said CSM, said corner being 891.49 feet South of the NW corner of said Section 33 on the West line of said Section 33, said corner also being on the centerline of Fremont Road; thence S 0°21'57" W, 341.12 feet along said centerline; thence S 4°29'00" E, 452.52 feet along said centerline; thence S 3°30'00" E, 203.74 feet along said centerline; thence S 0°19'00" E 226.56 feet along said centerline; thence S 5°07'00" W, 173.31 feet along said centerline to the SW corner of said CSM 1514; thence S 7°34'54" W along said centerline of Fremont Road 323.00 feet more or less to the intersection of said centerline and the West line of said Section 33; thence southerly, along the West line of said Section 33 55.80 feet more or less to the Southwest corner of the Northwest 1/4 of said Section 33; thence South 86°58'33" West, along the southerly line of the Northeast 1/4 of Section 32, T5N, R15E, 35.58 feet more or less to the West right of way of Fremont Road; thence North 4°47'33" East 315.37 feet more or less

along the West right of way of Fremont Road to a point on the East line of the Northeast 1/4 of said Section 32; thence North 01°41'08" West, along the East line of said Northeast 1/4, 102.19 feet more or less to the centerline of the Whitewater River; thence along the centerline of the Whitewater River the following courses: North 42°09'05" West 222.55 feet to a point; thence North 75°19'03" West 56.53 feet to a point; thence North 16°12'25" West 129.26 feet to a point; thence North 08°35'23" East 148.32 feet to a point; thence North 17°45'44" East 85.33 feet to a point; thence North 11°17'11" West 77.56 feet to a point; thence North 54°08'47" West 95.70 feet to a point; thence North 23°33'33" West 58.56 feet to a point; thence North 0°00'00" East 72.60 feet to a point; thence North 26°46'44" East 199.82 feet to a point; thence North 02°51'10" West 87.23 feet to a point; thence North 29°42'47" West 133.49 feet to a point; thence North 20°31'02" West 148.69 feet to a point; thence North 12°45'09" West 127.76 feet to a point; thence North 36°21'17" West 139.35 feet to a point; thence North 18°36'22" West 488.07 feet to a point; thence North 00°03'39" West 174.82 feet more or less to a point 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence South 88°54'19" West 789 feet more or less to a point on the West line of the East 1/2 of the Northeast 1/4 of said Section 32, which point lies 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence southerly along the West line of the East 1/2 of the Northeast 1/4 of said Section 32, 1280 feet more or less to the Northeast corner of the Southwest 1/4 of said Northeast 1/4 of said Section 32; thence N 89°30' W, 1327.66 feet along the North line of said SW 1/4 of said NE 1/4 of said Section 32, to the Northwest corner thereof; thence N 88°40' W, 2060.31 feet along the North line of the South 1/2 of the NW 1/4 of said Section 32 to the NE corner of Block 3 of Twin Oaks Subdivision; thence S 00°44' W along the East line of said Twin Oaks Subdivision, 731.00 feet to the NE corner of Lot 6 of Block 2 of said Twin Oaks Subdivision; thence N 88°40' W along the North line of said Lot 6 190.00 feet to the East line of County Trunk Highway "N" also being the West line of said Block 2; thence S 00°44' W along the West line of said Block 2, 285.00 feet to the SW corner of said Block 2; thence N 88°40' W, 33.00 feet to the centerline of said County Trunk Highway "N"; thence S 00°44' W along said centerline 320.61 feet to the North line of the NW 1/4 of the SW 1/4 of said Section 32; thence Westerly along said North line of said NW 1/4 of said SW 1/4 of said Section 32 to the West 1/4 corner of said Section 32; thence Westerly along the North line of the NE 1/4 of the SE 1/4 of Section 31, T5N, R15E to the NW corner of said NE 1/4 of said SE 1/4; thence Southerly along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, said West line of the East 1/2 of said Southeast 1/4 of said Section 31 being the westerly-most boundary of the City of Whitewater in said Section 31, to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31; thence leaving said westerly-most boundary of the City of Whitewater in Section 31 and running thence Easterly along the South line of Northeast 1/4 of the Southeast 1/4 of said Section 31 and the South line of the Northwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E, through lands located in the City of Whitewater, to the Southeast corner of Lot 29, Park Crest Subdivision, a subdivision located in the City of Whitewater, said Southeast corner of said Lot 29 being the point of beginning of the description of lands (hereinafter referred to as the "Excluded Lands") lying in part in the West 1/2 of the Southwest 1/4 of Section 32 and in part in the East 1/2 of the Southeast 1/4 of Section 31, T5N, R15E, Jefferson County, Wisconsin which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin and lying in part in the Northeast 1/4 of the Northeast 1/4 of Section 6, T4N, R15E, Walworth County, Wisconsin which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence N 00°12'09" E along the East line of Lots 29 and 28 of Park Crest Subdivision 229.62 feet to the northerly-most

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Northwest corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 89°36'33" E 486.59 feet to a point on the centerline of County Trunk Highway N as originally laid out as a 66-foot wide right of way, said point being the northerly-most Northeast corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 26°36'48" E along said centerline 257.70 feet to the South line of the NW 1/4 of the SW 1/4 of said Section 32; thence continue S 26°36'48" E along said centerline of County Trunk Highway N 395 feet more or less to the point of intersection of said centerline and the westerly extension of the southerly line of Lot 11, South Blooming Field Acres Subdivision; thence N 89°35'24" E 244.12 feet to the Southeast corner of said Lot 11; thence S 00°23'18" E 89.84 feet; thence S 89°37'34" West 199.94 feet to said centerline of County Trunk Highway N; thence S 26°36'48" E along said centerline 73.54 feet; thence N 89°35'59" E 244.17 feet; thence S 00°20'03" E 89.69 feet; thence N 89°30'54" E along the southerly-most line of Lot 12, South Blooming Field Acres Subdivision to the East line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said East line 180 feet; thence West to said centerline of County Trunk Highway N; thence southeasterly along said centerline to the Southeast corner of Certified Survey Map recorded in Volume 2 of Certified Surveys on Page 205; thence West along the South line of said Certified Survey Map to the West line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said West line 250 feet; thence East 1205.52 feet more or less to said centerline of County Trunk Highway N; thence southeasterly along said centerline to a point on the South line of said Section 32, T5N, R15E, Jefferson County, Wisconsin, said point also being a point on the North line of Section 5, T4N, R15E, Walworth County, Wisconsin, and said point being the southerly-most southeasterly corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence westerly along the North line of Section 5, T4N, R15E, to the NW corner of said Section 5, said NW corner of said Section 5 also being the NE corner of Section 6, T4N, R15E, Walworth County, Wisconsin and said corner also being the NE corner of that portion of the Excluded Lands which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence southerly along the East line of said Section 6, 251.46 feet more or less to a point on the southerly-most line of the lands described in Deed recorded in Volume 619, page 773 (Jefferson County) and Volume 283, page 922 (Walworth County), said point on the southerly-most line of the lands described in said Deed being the southeasterly corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence westerly, along the southerly-most line of the lands described in said Deed, 365 feet more or less to the southwesterly-most corner of the lands described in said Deed, said southwesterly-most corner of the lands described in said Deed being the Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence northerly, along the westerly-most line of the lands described in said Deed, 251.46 feet more or less to the Southwest corner of Section 32, T5N, R15E, Jefferson County, Wisconsin, said Southwest corner of said Section 32 being the Northwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin and also being the southerly-most Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence N 0°24' E, along the West line of the Southwest 1/4 of said Section 32, 292.85 feet; thence West 10.00 feet; thence N 0°24' E, parallel with said West line of said Southwest 1/4 of said Section 32, 260.00 feet to a point on the South line of Lot 1 of Certified Survey Map recorded in

Volume 2 of Certified Survey Maps of Jefferson County at page 205; thence westerly, along the South line of said Lot 1, 149.80 feet more or less to the Southwest corner of said Lot 1; thence northerly, along the West line of said Lot 1, 183.24 feet more or less to the Northwest corner of Lot 1; thence easterly, along the northerly line of said Lot 1, 1136.4 feet more or less to a point 5 feet southwesterly of the centerline of C.T.H. "N" as originally laid out as a 6-foot wide right of way; thence northwesterly, along a line drawn parallel to and 5.00 feet southwesterly of said centerline of C.T.H. "N", 441 feet more or less to a point 177.96 feet southerly of the North line of the Southwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E; thence westerly parallel with said North line, 225.60 feet more or less to a point 331.20 feet West of said centerline of C.T.H. "N"; thence northerly 177.96 feet to a point on the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 that lines 240 feet West of said centerline of C.T.H. "N"; thence westerly, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 (also being the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32), to the Southeast corner of Lot 29, Park Crest Subdivision and the ending point of the description of the Excluded Lands; thence leaving the boundary of said Excluded Lands and running westerly, along the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32, and along the South line of the Southeast 1/4 of the Northeast 1/4 of Section 31, T5N, R15E, through lands located in the City of Whitewater to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31, said Southeast corner being a point on the westerly-most boundary of the City of Whitewater in said Section 31; thence southerly, along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, 1330.52 feet more or less to the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 31 (said Southwest corner also being a point on the North line of Section 6, T4N, R15E, Walworth County, Wisconsin); thence westerly along the North line of Section 6, T4N, R15E, to the Northwest corner of said Section 6; thence southerly, along the West line of said Section 6, 123.49 feet; thence continuing southerly, along the West line of said Section 6, said West line also being the centerline of Warner Road, 866.51 feet more or less to the Northwest corner of the parcel described in Volume 669 of Deeds at page 374, Walworth County Register of Deeds; thence easterly, along the North line of said parcel described in Volume 669 of Deeds at page 374, 484 feet more or less to the northerly most Northwest corner of the parcel described in Volume 307 of Records at page 385, Walworth County Register of Deeds; thence easterly along the North line of said parcel described in Volume 307 of Records at page 385, 325.75 feet more or less to the Northwest corner of Lot 1 of Breidsan Hills Subdivision (subdivision plat recorded as Document No. 334782); thence easterly, along the north line of said Lot 1, 195 feet more or less to the Northwest corner of Lot 2 of Certified Survey Map No. 1871 recorded in Volume 9 of Certified Surveys at page 33; thence easterly, along the north line of said Lot 2 of CSM 1871, 90.57 feet more or less to the Southwest corner of parcel described in Volume 652 of Records, page 8209; thence northwesterly, along the southwesterly line of said parcel, 230.16 feet to the westerly-most corner of said parcel; thence northeasterly, along the northwesterly line of said parcel, 171.04 feet more or less to the southwest right-of-way line of former USH 12/STH 89; thence southeasterly, along said southwest right-of-way line, 477.75 feet more or less to the north line of Lot 2 of Certified Survey Map No. 1871; thence easterly, along said north line, 46.12 feet more or less to the centerline of former USH 12/STH 89; thence southeasterly, along the centerline of Business Highway 12 (formerly US Highway "12") 1410 feet more or less to the northerly-most corner of Certified Survey Map No. 3227 recorded in the Office of the Walworth County Register of Deeds in Volume 18 of Certified Surveys at page 44; thence

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westerly, along the North line of CSM 3227, 345.43 feet more or less to the Northwest corner of CSM 3227; thence continuing westerly, along the North line of the parcel described in Deed recorded in the Office of the Walworth County Register of Deeds as Document No. 529107, 2239.77 feet more or less to a point on the West line of said Section 6 which lies 999.8 feet North of the West 1/4 corner of said Section 6; thence South along said West line of said Section 6, the centerline of Warner Road, 999.8 feet to the West 1/4 corner of said Section 6; thence S 0°29'07" E, along the West line of the Southwest 1/4 of Section 6, T4N, R15E, 251.14 feet; thence N 89°30'53" E 141.38 feet; thence S 29°39'21" E, along the westerly line of the right of way of U.S. Highway 12, 1892.03 feet; thence S 08°14'40" E, along said westerly line of said U.S. Highway 12 right of way, 690.32 feet; thence S 5°57'24" E, 307.67 feet to a point on the southwesterly line of the right of way of US Highway 12; thence S 13°03'07" E, along said right of way line, 45.77 feet; thence continuing along said right of way line 500.93 feet along a curve to the left having a radius of 728.35 feet and a chord direction of S 34°46'21" E and a chord length of 491.12 feet; thence S 54°28'32" E, along said right of way line, 126.80 feet; thence N 89°24'04" E, along said right of way line, 66.78 feet; thence S 54°52'46" E, along said right of way line, 735.12 feet more or less to a point on a line drawn from the Southeast corner of Lot 1 of Certified Survey Map No. 1099 southerly to a point on the South line of Section 7, T4N, R15E lying 409.00 feet West of the South 1/4 corner of said Section 7; thence southerly, along said line drawn southerly from the Southeast corner of CSM 1099, and the southerly extension thereof, 4276.19 feet more or less to the northwesterly line of the former Chicago, Milwaukee & St. Paul Railroad right of way; thence continuing S 0°18'58" E along said line, 75.25 feet M/L, to the S'ly R/W line of said railroad; thence N 60°58'58" E, along said S'ly R/W line, 2029.25 feet M/L, to the beginning of a tangent curve, concave to the NW and having a radius of 5803.00 feet; thence continuing along said S'ly R/W line and NE'ly along said curve, through a central angle of 10°29'05", an arc distance of 1061.91 feet M/L, to a point of tangency; thence continuing along said S'ly R/W line, N 50°29'53" E, 1635.55 feet M/L, to the NW corner of that certain parcel described in a deed recorded in Vol. 650, Page 8477, records of Walworth Co., WI; thence S 29°45'34" E, along the W'ly line of said parcel, 690.02 feet M/L, to a point on the centerline of State Highway "59"; thence N 29°42'26" E, along said centerline, 510.27 feet M/L to the beginning of a tangent curve, concave to the SE and having a radius of 1206.23 feet; thence NE'ly along said curve and centerline, through a central angle of 14°33'19", an arc distance of 306.43 feet M/L, to a point of tangency; thence northeasterly, along said centerline, 416.29 feet M/L, to the SW corner of that certain parcel of land described in a deed recorded in Vol. 347, page 363, Records of Walworth County; thence S 79 degrees 21'54" E, along the S. line of said parcel, 511.79 feet, to an angle point therein; thence continuing along said S. line, S 59 degrees 08'33" E, 272.80 feet, to a point on the N-S 1/4 line said Sec. 8, said point being 380.19 feet S'ly of the center of said Sec. 8; thence continuing S 59 degrees 08'33" E, 920.81 feet more or less, to a point on the W. line of State Highway "89"; thence N 0 degrees 01'19" W, 357.09 feet more or less, to the NW corner of that certain parcel described in a deed recorded in Vol. 670, page 1339, Records of Walworth County, said corner being described as on the centerline of State Highway "89"; thence S 81 degrees 49'00" E, along the N. line of said parcel, 550.68 feet more or less, to the NW corner of Certified Survey Map No. 489, recorded in Vol. 2, page 311 of Certified Surveys of Walworth County; thence N 68 degrees 59'00" E, along the N'ly line of said CSM, 86.68 feet, to an angle point therein; thence continuing along said N'ly line, S 86 degrees 52'00" E, 355.06 feet, to the NE corner thereof; thence S 0 degrees 16'43" W, along the E. line of said

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CSM, 160.00 feet to the Northeast corner of Lot 3 of said CSM 489; thence N 87 degrees 10' W, along the N. line of said Lot 3 of said CSM 489, 153.87 feet to the NW corner of said Lot 3; thence S, along the W. line of said Lot 3, 457.97 feet more or less to a point on the N'yly right of way of Willis Ray Road; thence continue S 33.01 feet more or less to the centerline of Willis Ray Road, said centerline being the S'yly boundary of said CSM 489; thence S 86 degrees 23' E, along said centerline of Willis Ray Road and said S'yly line of said CSM 489, 153.99 feet to the SE corner of said CSM 489; thence N, along the E'yly line of said CSM 489, 147.88 feet; thence S 86 degrees 06'06" E (recorded as parallel to the centerline of Willis Ray Road) 856.31 feet, to a point on the E. line of said Section 8, said point being 110.59 feet N'yly of the SE corner of the NE 1/4, SE 1/4, said Section 8; thence N 0 degrees 56'05" E, along the E. line of said Section 8, 1208.78 feet, to the E 1/4 corner, Section 8; thence Easterly along the E-W 1/4 line of Sections 9 and 10 to the center of said Section 10, T4N, R15E; thence northerly, along the N-S 1/4 line of Section 10, T4N, R15E, 6 chains; thence East along a line drawn parallel to the South line of the Northeast 1/4 of said Section 10, to the Northwest corner of Lot 1 of Certified Survey Map No. 1643 recorded in the Walworth County Register of Deeds Office as Document No. 155915; thence easterly along the northerly-most line of said Lot 1 of said CSM 1643 to the northerly-most Northeast corner of said Lot 1, said northerly-most Northeast corner of said Lot 1 of CSM 1643 also being the Northwest corner of Certified Survey Map No. 1010 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at page 285 as Document No. 56192; thence easterly along the North line of said CSM 1010 to a point on the centerline of Old Highway P; thence northwesterly along the centerline of Old Highway P to the Southeast corner of Certified Survey Map No. 2616 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 13 of Certified Surveys at page 139 as Document No. 310254; thence southwesterly along the southeasterly line of said CSM 2616 to the Southwest corner of said CSM 2616; thence northwesterly along the southwesterly line of said CSM 2616 to the Northwest corner of said CSM 2616; thence northwesterly along the northwesterly line of said CSM 2616, 389.86 feet more or less to a point on the southwesterly right of way line of Old Highway P; thence northwesterly along the southwesterly right of way line of Old Highway P to a point where the southwesterly right of way line of Old Highway P intersects with the southerly right of way line of State Trunk Highway 59 (formerly U.S. Highway 12); thence northwesterly along said southerly right of way line of Highway 59 to a point which lies N 73°41' E 1112.00 feet more or less from a point on the West line of Northeast 1/4 of Section 10, T4N, R15E located 1325.94 feet South of the North 1/4 corner of said Section 10; thence N 41°58' W along the southerly right of way line of said State Trunk Highway 59 (also referred to as Elkhorn Road and formerly known as U.S. Highway 12) 406 feet more or less to the southeasterly boundary of an existing parcel; thence S 48°02' W 323 feet; thence N 41°58' W 150 feet; thence N 48°02' E 356 feet to the centerline of State Trunk Highway 59 (formerly U.S. Highway 12); thence N 41°58' W along the centerline of said highway 787.40 feet to the North line of said Section 10; thence S 87°37' W 193.38 feet along the North line of said Section 10 to the North 1/4 corner of said Section 10; thence N 3°08'18" W, along the N-S 1/4 line of Section 3, T4N, R15E to the point of intersection of said N-S 1/4 line with the centerline of State Trunk Highway 59/Elkhorn Road (formerly United States Highway 12); thence southeasterly along said centerline to the point of intersection of said centerline and the southwesterly extension of the Northwest line of the public road Sunrise Lane; thence N 45°19'42" E along the Northwest line of Sunrise Lane, 126.59 feet to the Southwest corner of Lot 1 of CSM 1292; thence N 3°08'18" W, 237.00 feet to

the Northwest corner of said Lot 1 of CSM 1292; thence N 85°39'12" E, 403.50 feet to the Northeast corner of said lot; thence S 3°08'18" E, 237.00 feet to the North line of Outlot 1, CSM 2620 thence N 85°39'12" E along said North line 209.86 feet to the Northeast corner of said Outlot 1; thence S 4°22'43" E, 66.00 feet to the Southeast corner of said Outlot 1, said corner being the Northeast corner of Lot 1, of said CSM 2620; thence continuing S 4°22'43" E along the East line of said CSM 2620, 236.09 feet to the Southeast corner of said Lot 1, said corner being on the South line of said Section 3, 720 feet more or less East of the South 1/4 corner of said Section 3; thence West along the South line of said Section 3 (the South line of said Section 3 also being the North line of Section 10, T4N, R15E) 479.58 feet more or less to the northerly right of way line of State Trunk Highway 59 (also sometimes referred to as Elkhorn Road and formerly designated as U.S. Highway 12); thence southeasterly along the northerly right of way line of said highway 536.38 feet more or less to a point on the North line of Certified Survey Map No. 503 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 2 of Certified Surveys on page 333 as Document No. 694000; thence East along the North line of said CSM 503 430.95 feet to the Northeast corner of said CSM 503; thence South along the East line of said CSM 503 235.98 feet to the Southeast corner of said CSM 503; thence West along the South line of said CSM 503 266.34 feet more or less to the centerline of State Trunk Highway 59 (formerly US Highway 12); thence southeasterly along the centerline of the road that existed and was known and designated as United States Highway 12 prior to construction of the US Highway 12 By-Pass of the City of Whitewater to the intersection of said former centerline and the East line of said Section 10, said point of intersection being approximately 145.5 feet more or less North of the East 1/4 corner of said Section 10; thence North along the East line of said Section 10 to the NE corner of said Section 10; thence continuing North along the East line of Section 3, T4N, R15E, 728.24 feet to the Northeast corner of Walton's Pine Bluff Subdivision; thence S 88°32'30" W along the North line of Walton's Pine Bluff Subdivision 147.41 feet to the Southeast corner of Lot 7, Pine Bluff Subdivision; thence N 00°00'00" E 333.29 feet to the Northeast corner of Lot 4 of Pine Bluff Subdivision; thence S 79°14'04" E 27.00 feet to the Southeast corner of Lot 3 of Pine Bluff Subdivision; thence N 00°00'02" E to the Northeast corner of Lot 1 of Pine Bluff Subdivision; thence continue N 00°00'02" E 35 feet more or less to the centerline of Bluff Road; thence easterly along the centerline of Bluff Road to the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3, the centerline of Howard Rd., to the point of intersection of said centerline with the E-W 1/4 line of said Section 3; thence West along said E-W 1/4 line 466.51 feet; thence N 01°13' E, 374.66 feet; thence East, parallel with said E-W 1/4 line of said Section 3, 466.51 feet to the East line of said Section 3 and the centerline of Howard Road; thence South along the West line of Section 2, T4N, R15E (said West line of Section 2 also being the East line of Section 3, T4N, R15E) and the centerline of Howard Road 341.66 feet more or less to a point on the West line of said Section 2 lying 33 feet North of the West 1/4 corner of said Section 2; thence easterly, parallel with the East-West 1/4 line of said Section 2 33 feet; thence southerly parallel to the West line of said Section 2, 33 feet to the East-West 1/4 line of said Section 2; thence East, along the East-West 1/4 line of said Section 2, 549 feet more or less to a point on said East-West 1/4 Section line which lies 582 feet East of the West 1/4 corner of said Section 2; thence South, parallel with the West line of the Southwest 1/4 of said Section 2, said West line also being the centerline of Howard Road, 883.51 feet; thence West, parallel with the East-West 1/4 line of said Section 2, 356 feet; thence South, parallel with the West line of said Southwest 1/4 of Section 2 162 feet to the northerly line of the Wisconsin &

Southern Railroad right of way; thence easterly along the northerly line of the said railroad right of way to the North-South 1/4 line of said Section 2; thence North along the said North-South 1/4 line of said Section 2 to the Northeast corner of the South 1/2 of the Northwest 1/4 of said Section 2; thence West along the North line of the South 1/2 of the Northwest 1/4 of said Section 2 to the Northeast corner of Certified Survey Map No. 1480 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 7 of Certified Surveys on Page 56; thence southerly along the East line of said CSM 1480 to the Southeast corner of said CSM 1480, said Southeast corner of CSM 1480 also being the Northeast corner of Lot 2 of Certified Survey Map No. 906 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at Page 133; thence South along the East line of Lot 2 of said Certified Survey Map No. 906 222.87 feet more or less to the Southeast corner of Lot 2 of said Certified Survey Map No. 906; thence West along the South line of Lot 2 of said CSM 906 179.48 feet more or less to the easterly right of way line of Howard Road; thence continuing westerly 33 feet more or less to the centerline of Howard Road, said centerline also being the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3 to a point 1670.46 feet north of the East 1/4 corner of said Section 3; thence S 89°45' W, 357.00 feet; thence North, parallel with said East line of said Section 3, 702.70 feet; thence N 89°45' E, 357.00 feet to the said East line of said Section 3; thence North along said East line to the NE corner of said Section 3.

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

It was moved by Allen and seconded by Taylor to adopt the Boundary Ordinance. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

### **AWARD OF CONTRACT 1-2009 FOR WHITEWATER STREET RECONSTRUCTION.**

City Manager Brunner indicated that this contract will reconstruct Whitewater Street between Second Street and Fremont Street. It will also extend Parking Lot A. The cost estimate from Raymond Cattell, Inc. of Madison is \$284,000, which includes engineering, construction and 10% contingencies. The bid is \$30,000 under budget. Kienbaum stated that the changes being made are a lot of expense for not much change and that making room for sidewalk dining in Wisconsin is not a wise choice. It was moved by Nosek and seconded by Binnie to award contract 1-2009 for Whitewater Street Reconstruction in the amount of \$233,845 with \$30,000 coming from TIF 4 to Cattell, Inc. of Madison, Wisconsin. AYES: Allen, Taylor, Nosek, Binnie, Singer, Stewart. NOES: Kienbaum.

### **ACKNOWLEDGMENT OF RECEIPT AND FILING OF STORMWATER ANNUAL REPORT FOR 2008.**

It was moved by Allen and seconded by Taylor to acknowledge receipt and filing of the 2008 Stormwater Annual Report. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

**DISCUSSION OF POSSIBLE FEDERAL STIMULUS PROJECTS.** Brunner reported on possibilities for funding of local projects. The Federal Clean Water Fund could be tapped for possible improvements at the wastewater treatment plant. There is a possibility of grants or low-interest loans to upgrade the plant which was built in 1982. New technologies are being evaluated as well as new requirements for waste treatment. Taylor suggested finding funds to make the Starin Park playground handicapped accessible. Brunner responded that there are no

federal stimulus funds available for this type of project. There are other possible funding sources. Matt Amundson (Park and Rec director) is working with a private foundation to obtain funds for the Starin park playground. Councilmember Allen was concerned about delaying the Clay Street project. Brunner answered that the detour for Milwaukee Street would be Clay Street, so the projects could not be done simultaneously. Allen suggested that there may need to be some temporary repairs to Clay Street before it is used as a detour.

Brunner added that many of the grants available would be very competitive, with many cities looking for the same funds. He believes that Milwaukee Street is a good candidate as it is a simple project requiring no land acquisition.

Nosek inquired whether there had been any progress on the inter-city transportation proposal and improvements to the shared ride taxi service. Brunner answered that Janesville, Milton and Whitewater are currently hiring a consultant to look at the possibility of a commuter bus system between Janesville and Whitewater which would also serve students and faculty at UW Whitewater. Any stimulus money available would be through the Janesville Transit Authority. There is no stimulus money available which could be used to make the shared ride taxi service more efficient.

**POSSIBLE RESCHEDULING OF FIRST MEETING IN APRIL TO WEDNESDAY, APRIL 8, 2009.** It was moved by Allen and seconded by Taylor to reschedule the first Council meeting in April to Wednesday, April 8, 2009. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

**APPROVAL OF AMBULANCE REPLACEMENT BID TO MED TEC IN THE AMOUNT OF \$132,654.** Captain Terry Malone from the EMS was present. Purchase of the equipment was budgeted through the Capital Improvement Fund. The sale of the old ambulance will bring the cost of the new one below the budgeted amount. It was moved by Allen and seconded by Taylor to approve the bid from Med Tec in the amount of \$132,654. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

**DISCUSSION IN LEVY LIMIT GRANT REFERENDUM.** Taylor expressed concern about the levy limits and the effect on the City. In particular, he is concerned about the hiring freeze for both full and part time city employees including a police department vacancy. He mentioned the possibility of a future referendum that would authorize exceeding of levy limits. Councilmember Singer stated that this would need to wait until the State budget is passed.

**COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS.** Taylor requested a discussion of an attendance policy for Boards and Commissions. Allen requested that a Janesville Police Officer come and make a presentation concerning the proposed chronic nuisance ordinance.

**EXECUTIVE SESSION.** It was moved by Singer and seconded by Allen to **EXECUTIVE SESSION, TO RECONVENE PER WISCONSIN STATUTES 19.85(1)(c) "CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION OR**

**PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY' AND 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."** Item to be Discussed: AFSCME Union Negotiations and Possible Ratification of Contract. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. The meeting adjourned t 7:35 p.m.

**RE-ADJOURN TO OPEN SESSION.** At 7:50 p.m., it was moved by Singer and seconded by Nosek to reconvene into open session. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. The motion was supported unanimously.

**RATIFICATION OF AFSCME UNION CONTRACTS.** It was moved by Taylor and seconded by Stewart to approve the 2009 – 2011 AFSCME contract as presented to council. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

**ADJOURN.** It was moved by Binnie and seconded by Taylor to adjourn the meeting. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk

## Report Criteria:

Detail report.  
Invoices with totals above \$0.00 included.  
Only unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
<b>ADVANCE PRINTING</b>					
1295	ADVANCE PRINTING	96784	ADVANCE PRINTING/SPRING N	05/05/2009	445.00
1295	ADVANCE PRINTING	96896	ADVANCE PRINTING/PD ADMIN	05/05/2009	250.00
Total ADVANCE PRINTING:					695.00
<b>ALLEN INC, L W</b>					
166	ALLEN INC, L W	85362	LW ALLEN/WWTP/REPR-MTN LI	05/05/2009	284.00
Total ALLEN INC, L W:					284.00
<b>AMERICAN WATER WORKS</b>					
26	AMERICAN WATER WORKS	7000098910	WATER/AWWA MEMBERSHIP	05/05/2009	327.00
Total AMERICAN WATER WORKS:					327.00
<b>AROPA DESIGNS</b>					
880	AROPA DESIGNS	28626	AROPA/RESCUE/OPERATING S	05/05/2009	110.00
Total AROPA DESIGNS:					110.00
<b>AUER STEEL &amp; HEATING SUPPLY</b>					
662	AUER STEEL & HEATING SUPP	3626184	AUER STEEL/BUILD HEATING &	05/05/2009	557.48
Total AUER STEEL & HEATING SUPPLY:					557.48
<b>BELRON US INC</b>					
5460	BELRON US INC	110267	BELRON US INC/PATROL VEHI	05/05/2009	188.95
Total BELRON US INC:					188.95
<b>BOUND TREE MEDICAL LLC</b>					
3610	BOUND TREE MEDICAL LLC	87057770	BOUND TREE/RESCUE OPERA	05/05/2009	597.82
Total BOUND TREE MEDICAL LLC:					597.82
<b>BROWN CAB SERVICE</b>					
47	BROWN CAB SERVICE	MAR09	BROWN CAB/MARCH SERVICE	05/05/2009	12,783.09
Total BROWN CAB SERVICE:					12,783.09
<b>CHARTER COMMUNICATIONS</b>					
1571	CHARTER COMMUNICATIONS	MAY09	CITY/COURT CONNECTION	05/05/2009	166.98
Total CHARTER COMMUNICATIONS:					166.98
<b>CULLIGAN DALEE WATER SVC</b>					
208	CULLIGAN DALEE WATER SVC	0409REPAIR	CULLIGAN/RESCUE/EQUIP	05/05/2009	895.00
208	CULLIGAN DALEE WATER SVC	0409REPAIR	CULLIGAN/RESCUE/OPERATIN	05/05/2009	35.25
208	CULLIGAN DALEE WATER SVC	1050882MAR0	CULLIGAN/CABLE/OPERATING	05/05/2009	8.95
Total CULLIGAN DALEE WATER SVC:					939.20

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
<b>DAN'S MEAT MARKET (Cont.)</b>					
<b>DAN'S MEAT MARKET (Cont.)</b>					
4580	DAN'S MEAT MARKET	553770	DANS MEAT MARKET/RESCUE/	05/05/2009	37.61
Total DAN'S MEAT MARKET:					37.61
<b>DIVERSIFIED BENEFIT SVC INC</b>					
4192	DIVERSIFIED BENEFIT SVC INC	95536	FINANCE/APRIL SVC	05/05/2009	353.08
Total DIVERSIFIED BENEFIT SVC INC:					353.08
<b>EMERGENCY MEDICAL PRODUCTS</b>					
115	EMERGENCY MEDICAL PRODU	INV1159453	EMP/RESCUE OPERATING SUP	05/05/2009	301.72
115	EMERGENCY MEDICAL PRODU	INV1160742	EMP/RESCUE/OPERATING SUP	05/05/2009	5.90
Total EMERGENCY MEDICAL PRODUCTS:					307.62
<b>F J A CHRISTIANSEN ROOFING CO</b>					
4438	F J A CHRISTIANSEN ROOFING	PS-INV16828	FJA CHRISTIANSEN ROOFING/	05/05/2009	1,972.00
4438	F J A CHRISTIANSEN ROOFING	PS-INV16982	FJA CHRISTIANSEN ROOFING/	05/05/2009	7,367.00
Total F J A CHRISTIANSEN ROOFING CO :					9,339.00
<b>FIRE-RESCUE SUPPLY LLC</b>					
3886	FIRE-RESCUE SUPPLY LLC	2055	FIRE-RESCUE SUPPLY/EQUIP	05/05/2009	297.00
Total FIRE-RESCUE SUPPLY LLC:					297.00
<b>FIRST SUPPLY</b>					
205	FIRST SUPPLY	7819661-00	FIRST SUPPLY/REPAIR/MTN - S	05/05/2009	294.00
205	FIRST SUPPLY	7827881-00	FIRST SUPPLY/REPR/MTN - SA	05/05/2009	150.00
Total FIRST SUPPLY:					444.00
<b>GERMUNDSON HEATING &amp; COOLING</b>					
5232	GERMUNDSON HEATING & CO	0409REPAIR	GERMUNSON HEAT/BLD HEAT	05/05/2009	310.00
Total GERMUNDSON HEATING & COOLING :					310.00
<b>HARMS AUTOMOTIVE</b>					
5458	HARMS AUTOMOTIVE	02588	HARMS AUTOMOTIVE/INV OP S	05/05/2009	126.80
Total HARMS AUTOMOTIVE:					126.80
<b>HD SUPPLY WATERWORKS LTD</b>					
2459	HD SUPPLY WATERWORKS LT	8780735	HD SUPPLY WATERWORKS/RE	05/05/2009	72.50
2459	HD SUPPLY WATERWORKS LT	8804342	WATER/REPAIR CLAMP	05/05/2009	374.38
Total HD SUPPLY WATERWORKS LTD:					446.88
<b>HERGERT WELDING</b>					
5449	HERGERT WELDING	1055	WATER/WELL #9 FILTER	05/05/2009	70.00
Total HERGERT WELDING:					70.00
<b>IIMC</b>					
673	IIMC	9341	INTL INST OF MUNI CLERKS/RE	05/05/2009	125.00

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
Total IIMC:					125.00
<b>INTERNATIONAL CODE COUNCIL INC</b>					
2674	INTERNATIONAL CODE COUNC	2713830	INTL CODE COUNCIL/DUES/SU	05/05/2009	100.00
Total INTERNATIONAL CODE COUNCIL INC:					100.00
<b>JAMES IMAGING SYSTEMS INC</b>					
4617	JAMES IMAGING SYSTEMS INC	8437646	GEN ADMN/COPIER	05/05/2009	383.13
4617	JAMES IMAGING SYSTEMS INC	8437646	GEN ADMN/COPIES	05/05/2009	71.03
4617	JAMES IMAGING SYSTEMS INC	8437646	COUNCIL/COPIES	05/05/2009	106.55
4617	JAMES IMAGING SYSTEMS INC	8466875	FINANCE/COPIER LEASE	05/05/2009	272.13
4617	JAMES IMAGING SYSTEMS INC	8466875	FINANCE/COPIES	05/05/2009	170.71
4617	JAMES IMAGING SYSTEMS INC	8466876	POLICE/COPIER	05/05/2009	284.13
4617	JAMES IMAGING SYSTEMS INC	8466876	POLICE/COPIES	05/05/2009	270.56
4617	JAMES IMAGING SYSTEMS INC	8466877	DPW PLANNING/COPIER	05/05/2009	272.13
4617	JAMES IMAGING SYSTEMS INC	8466877	PLANNING/COPIES	05/05/2009	403.91
4617	JAMES IMAGING SYSTEMS INC	8466877	DPW/COPIES	05/05/2009	403.90
Total JAMES IMAGING SYSTEMS INC:					2,638.18
<b>JOHNSON BLOCK &amp; CO INC</b>					
4258	JOHNSON BLOCK & CO INC	00110831	FINANCE/AUDIT PROGRESS BI	05/05/2009	11,300.00
4258	JOHNSON BLOCK & CO INC	00110831	WATER/AUDIT PROGRESS BILL	05/05/2009	2,700.00
4258	JOHNSON BLOCK & CO INC	00110831	WASTEWATER/AUDIT PROGRE	05/05/2009	2,700.00
4258	JOHNSON BLOCK & CO INC	00110831	STORMWATER/AUDIT PROGRE	05/05/2009	1,000.00
Total JOHNSON BLOCK & CO INC:					17,700.00
<b>LAKE MILLS RECREATION DEPT</b>					
5042	LAKE MILLS RECREATION DEP	0409TOURN	REC/TOURNAMENT ENTRY FE	05/05/2009	200.00
Total LAKE MILLS RECREATION DEPT:					200.00
<b>LINDNER &amp; MARSACK SC</b>					
79	LINDNER & MARSACK SC	42862	LINDNER & MARSACK/ATTY SE	05/05/2009	2,110.50
Total LINDNER & MARSACK SC:					2,110.50
<b>MADISON CONCRETE PIPE INC</b>					
499	MADISON CONCRETE PIPE INC	126978	MADISON CONCRETE/WWTP/R	05/05/2009	1,281.21
499	MADISON CONCRETE PIPE INC	127031	MADISON CONCRETE/WWTP/R	05/05/2009	151.60
Total MADISON CONCRETE PIPE INC:					1,432.81
<b>MEYER'S AUTO SUPPLY</b>					
176	MEYER'S AUTO SUPPLY	73889	WASTEWATER/BLDG & GROUN	05/05/2009	9.44
Total MEYER'S AUTO SUPPLY:					9.44
<b>MILPORT ENTERPRISES INC</b>					
1408	MILPORT ENTERPRISES INC	184493	WATER/CHEMICALS	05/05/2009	1,564.00
1408	MILPORT ENTERPRISES INC	185096	WATER/CHEMICALS	05/05/2009	1,564.00
Total MILPORT ENTERPRISES INC:					3,128.00

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
<b>NORTH WOODS SUPERIOR CHEMICAL (Cont.)</b>					
<b>NORTH WOODS SUPERIOR CHEMICAL (Cont.)</b>					
1947	NORTH WOODS SUPERIOR CH	89929	NORTHWOODS SUPERIOR/BLD	05/05/2009	108.21
Total NORTH WOODS SUPERIOR CHEMICAL:					108.21
<b>NORTHERN LAKE SERVICE INC</b>					
1335	NORTHERN LAKE SERVICE INC	164339	WATER/EPA UCMR SAMPLING	05/05/2009	880.00
1335	NORTHERN LAKE SERVICE INC	164340	WATER/EPA UCMR SAMPLING	05/05/2009	440.00
1335	NORTHERN LAKE SERVICE INC	164341	WATER/EPA UCMR SAMPLING	05/05/2009	880.00
1335	NORTHERN LAKE SERVICE INC	166278	NORTHER LAKE SERVICES/W	05/05/2009	248.00
1335	NORTHERN LAKE SERVICE INC	166499	WATER/2ND QUARTER SAMPLI	05/05/2009	95.00
Total NORTHERN LAKE SERVICE INC:					2,543.00
<b>NORTHERN WATER WORKS SUPPLY</b>					
4098	NORTHERN WATER WORKS SU	SO1186257.00	WATER/OVERSIZE CAPS	05/05/2009	387.04
Total NORTHERN WATER WORKS SUPPLY:					387.04
<b>OFFICE DEPOT</b>					
4146	OFFICE DEPOT	468998863-00	OFFICE DEPOT/RESCUE/SUPP	05/05/2009	59.99
4146	OFFICE DEPOT	470695673-00	OFFICE DEPOT/PD ADMIN OFFI	05/05/2009	66.22
Total OFFICE DEPOT:					126.21
<b>RICOH AMERICAS CORP</b>					
90	RICOH AMERICAS CORP	09904292	RESCUE/COPIER	05/05/2009	60.61
90	RICOH AMERICAS CORP	09904293	FIRE/COPIER	05/05/2009	21.91
90	RICOH AMERICAS CORP	09937141	WATER/COPIER	05/05/2009	25.91
Total RICOH AMERICAS CORP:					108.43
<b>S &amp; H TRUCK SERVICE</b>					
388	S & H TRUCK SERVICE	9414	S&H/RESCUE/REPAIR/MTN VE	05/05/2009	376.53
388	S & H TRUCK SERVICE	9420	S&H/WWTP/REPAIR & SUPPLIE	05/05/2009	459.11
388	S & H TRUCK SERVICE	9425	S&H/RESCUE/REPAIR/MTN VE	05/05/2009	346.73
388	S & H TRUCK SERVICE	9427	S&H/CRASH CREW/REPAIR/MT	05/05/2009	376.29
Total S & H TRUCK SERVICE:					1,558.66
<b>SASSY SHIRTS</b>					
131	SASSY SHIRTS	30471	SAMY SHIRTS/TID4/WHITEWAT	05/05/2009	154.00
131	SASSY SHIRTS	30472	SAMY SHIRTS/TID4/WHITEWAT	05/05/2009	48.50
131	SASSY SHIRTS	30473	SAMY SHIRTS/TID4/WHITEWAT	05/05/2009	154.00
Total SASSY SHIRTS:					356.50
<b>SCHINDLER ELEVATOR CORP</b>					
3030	SCHINDLER ELEVATOR CORP	7151140283	SCHINDLER ELEVATOR/BLDG	05/05/2009	671.85
Total SCHINDLER ELEVATOR CORP:					671.85
<b>SENTRY OF WHITEWATER, DANIELS</b>					
2	SENTRY OF WHITEWATER, DA	02MAR2009	SENTRY/RESCUE/OPERATING	05/05/2009	47.09
2	SENTRY OF WHITEWATER, DA	09MAR2009	SENTRY/RESCUE/OPERATING	05/05/2009	49.31
2	SENTRY OF WHITEWATER, DA	13MAR09	SENTRY/RESCUE/OPERATING	05/05/2009	29.81
2	SENTRY OF WHITEWATER, DA	15MAR09	SENTRY/RESCUE/OPERATING	05/05/2009	193.68

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
Total SENTRY OF WHITEWATER, DANIELS:					319.89
<b>SESCO LLC</b>					
3085	SESCO LLC	2783	SESCO/RESCUE/EQUIPMENT	05/05/2009	351.00
Total SESCO LLC:					351.00
<b>STANFORD, NANCY</b>					
1566	STANFORD, NANCY	SWEET SPOT	GEN ADMN/CHANCELLOR MTG	05/05/2009	5.25
Total STANFORD, NANCY:					5.25
<b>STRAND ASSOCIATES INC</b>					
358	STRAND ASSOCIATES INC	0071235	PLANNING/MAIN & WHITON	05/05/2009	2,463.62
358	STRAND ASSOCIATES INC	0071236	PLANNING/MAIN & WHITON	05/05/2009	1,494.58
358	STRAND ASSOCIATES INC	0071236	TID 4/BUSINESS PARK WETLAN	05/05/2009	45.77
358	STRAND ASSOCIATES INC	0071236	PLANNING/FRAWLEY OIL	05/05/2009	365.56
358	STRAND ASSOCIATES INC	0071236	PLANNING/MILWAUKEE & NEW	05/05/2009	144.01
358	STRAND ASSOCIATES INC	0071236	PLANNING/MILWAUKEE ST	05/05/2009	1,861.15
358	STRAND ASSOCIATES INC	0071236	DPW/GIS ASSISTANCE	05/05/2009	81.20
358	STRAND ASSOCIATES INC	0071264	TID 4/MAIN WI & MILWAUKEE	05/05/2009	1,311.14
358	STRAND ASSOCIATES INC	0071265	WASTEWATER/BEACH PUMPIN	05/05/2009	2,462.21
358	STRAND ASSOCIATES INC	0071326	CIF/CENTER ST RECONSTRUC	05/05/2009	13,745.00
358	STRAND ASSOCIATES INC	0071327	TID 4/NORTH & FIRST ST	05/05/2009	9,756.57
358	STRAND ASSOCIATES INC	0071426	TID 4/MUNICIPAL PARKING LOT	05/05/2009	1,577.07
358	STRAND ASSOCIATES INC	0071427	TID 4/WHITEWATER ST	05/05/2009	1,168.38
Total STRAND ASSOCIATES INC:					36,476.26
<b>SWEETSPOT, THE</b>					
4353	SWEETSPOT, THE	0409MEALS	SWEET SPOT COFFEE/CITY MA	05/05/2009	27.48
Total SWEETSPOT, THE:					27.48
<b>UNITED PARCEL SERVICE</b>					
19	UNITED PARCEL SERVICE	00000X36X816	WATER/STATE LAB	05/05/2009	20.02
Total UNITED PARCEL SERVICE:					20.02
<b>USA BLUE BOOK</b>					
1062	USA BLUE BOOK	790065	WATER/HYDRANT MAINTENAN	05/05/2009	1,246.71
1062	USA BLUE BOOK	795550	WATER/REPAIR CLAMP	05/05/2009	251.69
Total USA BLUE BOOK:					1,498.40
<b>UW WHITEWATER</b>					
8	UW WHITEWATER	0409PROGRA	UW CASHIER/SEX ASSAULT PR	05/05/2009	200.00
Total UW WHITEWATER:					200.00
<b>VANDEWALLE &amp; ASSOCIATES</b>					
27	VANDEWALLE & ASSOCIATES	200903048	VANDEWALLE MARCH 09 SVC	05/05/2009	3,852.00
Total VANDEWALLE & ASSOCIATES:					3,852.00
<b>VEOLIA ENVIRONMENTAL SERVICES</b>					
255	VEOLIA ENVIRONMENTAL SER	909551593	VEOLIA ENV/SEWER/JEFF CTY	05/05/2009	24.45

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
<b>VEOLIA ENVIRONMENTAL SERVICES (Cont.)</b>					
255	VEOLIA ENVIRONMENTAL SER	909551593	VEOLIA ENV/WATER/JEFF CTY	05/05/2009	24.46
Total VEOLIA ENVIRONMENTAL SERVICES:					48.91
<b>WALMART COMMUNITY</b>					
1507	WALMART COMMUNITY	1507-050509	SENIORS/EASTER LUNCH	05/05/2009	4.52
1507	WALMART COMMUNITY	1507-050509	SENIORS/SUPPLIES	05/05/2009	43.30
1507	WALMART COMMUNITY	1507-050509	ELECTIONS/SUPPLIES	05/05/2009	51.03
1507	WALMART COMMUNITY	1507-050509	FINANCE/SUPPLIES	05/05/2009	51.10
1507	WALMART COMMUNITY	1507-050509	POLICE ADMN/OPERATING SU	05/05/2009	82.43
1507	WALMART COMMUNITY	1507-050509	POLICE INV/OPERATING SUPP	05/05/2009	4.41
1507	WALMART COMMUNITY	1507-050509	RESCUE/OPERATING SUPPLIE	05/05/2009	76.93
1507	WALMART COMMUNITY	1507-050509	DPW/OFFICE SUPPLIES	05/05/2009	13.44
1507	WALMART COMMUNITY	1507-050509	REC/OFFICE SUPPLIES	05/05/2009	3.88
1507	WALMART COMMUNITY	1507-050509	REC/SUPPLIES	05/05/2009	50.72
1507	WALMART COMMUNITY	1507-050509	SENIORS/SUPPLIES	05/05/2009	27.69
1507	WALMART COMMUNITY	1507-050509	LIBRARY/OFFICE SUPPLIES	05/05/2009	14.62
1507	WALMART COMMUNITY	1507-050509	LIBRARY/JUVENILE PROGRAM	05/05/2009	13.84
1507	WALMART COMMUNITY	1507-050509	WASTEWATER/OPERATING SU	05/05/2009	118.34
1507	WALMART COMMUNITY	1507-050509	WASTEWATER/LAB SUPPLIES	05/05/2009	25.38
1507	WALMART COMMUNITY	1507-050509	CDA/CELL PHONE CHARGER	05/05/2009	9.00
Total WALMART COMMUNITY :					590.63
<b>WATER WELL SOLUTIONS SVC GROUP</b>					
4323	WATER WELL SOLUTIONS SVC	09-03-122	WATER/WELL /WELL #9 REHAB	05/05/2009	9,107.50
Total WATER WELL SOLUTIONS SVC GROUP:					9,107.50
<b>WHITEWATER LIMESTONE INC</b>					
20	WHITEWATER LIMESTONE INC	7752	WATER/LIMESTONE CHIPS	05/05/2009	34.06
Total WHITEWATER LIMESTONE INC:					34.06
<b>WI DEPT OF AG TRADE &amp; CONSUMER</b>					
1104	WI DEPT OF AG TRADE & CON	7/1/08-6/30/09	NEIGHBORHOOD SVC/MEASUR	05/05/2009	3,600.00
Total WI DEPT OF AG TRADE & CONSUMER:					3,600.00
<b>WI STATE LABORATORY OF HYGIENE</b>					
1899	WI STATE LABORATORY OF HY	4839526	WATER/FLUORIDE SAMPLING	05/05/2009	40.00
Total WI STATE LABORATORY OF HYGIENE:					40.00
Grand Totals:					117,856.74

Dated: April 30, 2009

Finance Director: *Ray Smith*

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Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
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Report Criteria:

Detail report.

Invoices with totals above \$0.00 included.

Only unpaid invoices included.

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CITY OF WHITEWATER  
 PLAN AND ARCHITECTURAL REVIEW COMMISSION  
 Whitewater Municipal Building Community Room  
 May 5, 2008

**ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE PLAN AND ARCHITECTURAL REVIEW COMMISSION**

City Planner Ryan Garcia opened the Plan and Architectural Review Commission meeting at 7:00 p.m. Both the Plan Commission Chairperson and Vice Chairperson were unable to be at the meeting.

PRESENT: Kienbaum, Stone, Kaluva, Miller, Zaballos, Dalee (Alternate). ABSENT: Wiedenhoef, Gilpatrick. OTHERS: Ryan Garcia/City Planner, Bruce Parker/Zoning Administrator, Wegner.

**HEARING OF CITIZEN COMMENTS.** This is a time in the agenda where citizens can voice their concerns. They are given three minutes to talk. No formal Plan Commission 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.

Kathleen Roelli asked about the City Master Plan and the Smart Growth Plan. After City Planner Mark Roffers gave a brief synopsis, Kathleen decided she would get more information at City Hall the next day.

**PUBLIC WORKSHOP ON PHASE 4 OF THE SOUTH WHITEWATER NEIGHBORHOOD DEVELOPMENT PLAN – ANALYSIS AND DEVELOPMENT PLAN OPTIONS FOR THE ELKHORN ROAD CORRIDOR.** City Planner Ryan Garcia explained that this meeting is for informational gathering and no official action will be taken tonight. This plan is for the City's Master Plan and to be used toward the Smart Growth Plan which is to be completed by 2010.

Chris Landerud, Vandewalle and Associates, explained that the South Neighborhood plan is the 4<sup>th</sup> Neighborhood Plan. The North Neighborhood Plan was the latest one which covered the area bounded by north of Highway U all the way to Highway 59, County Highway N to the west and Howard Road on the east. The West Neighborhood Plan was completed in 2001 and the East Neighborhood Plan was completed in 1999.

These plans are a guideline for the City to make decisions for development. A guide for continuity, and to support and sustain logical growth.

The South Neighborhood Plan covers approximately 2600 acres located on or beyond the south side of the City of Whitewater extending into the Town of Whitewater. The planning area generally extends from Cravath and Trippe Lakes out to the edges of the Sanitary Service Area.

They are looking to gather information from the public, the Plan Commission and Planning Staff. This meeting will focus on the Elkhorn Road area. Future meetings will be used to weigh in on uses outside the Elkhorn Road area.

City Planner Ryan Garcia noted that as a policy, property owners in the area will be notified. Notices are published in the Whitewater Register and posted at two public locations. It is also put on the Cable Station.

Chris Landerud reviewed the past meeting on the South Whitewater Neighborhood Plan. The focus area for this meeting, Phase 4, was the Elkhorn Road corridor which is East of Howard Road and North of Clay Street and E. Bluff Road. The interstate is important for commercial centers and the industrial park, the context of the region where commercial centers are growing. The Downtown area has an important planning process because businesses are moving near the bypass where it is at grade. There is a push for commercial growth in these areas. The study area has Trippe Lake on the west, the bypass on the south, where the electrical lines cross Howard Road, the East Towne Market area, and the new residential area near Jakes Way.

Option A is developed with the previous East Whitewater Development Plan, which includes the East Towne Market and the bypass. There are a couple of components that have changed since 1999. There are smaller commercial fronting on the west side of Elkhorn Road and larger commercial to the east of Elkhorn Road. Moraine View Parkway has a transition of mixed residential to single family and an environmental corridor. The intent and character of the park plan is that there will be a pedestrian trail and bike system around the lake with on-street and off-street routes. There is a water shed area bounded by Elkhorn and Howard Roads. Access points-access and limitation along the Elkhorn Road Corridor will be determined by Vandewalle, the City and DOT. Chris Landerud explained Option B in which there are smaller commercial sites near the bypass. There are challenges in both plans; Tripp Lake and environmental corridors, and power lines divide up many sites. The wetland on the east side dictates land use and road patterns.

Chris Landerud explained that there were County based wetlands. As the land is being developed, specific data may change. This is to be used as a guideline tool. There is a 75 foot minimum buffer around wetland areas as the area is developed. The pedestrian and bike trails and the gateway park are in all options. The revised options are to create three separate nodes of commercial development; commercial to front on Elkhorn Road and/or residential to front on the park. The plan is to expand residential from Jakes Way toward Trippe Lake. To the northwest of this area is planned community market with mixed residential separating it from the Village of Trippe Lake Development.

City Planner Ryan Garcia explained that these first two alternatives are in response to public input from previous meetings which includes:

- 1) The east side is underserved for shopping (the City as a whole is underserved);
- 2) The concern of locating commercial by the bypass;
- 3) The suitability of commercial development layout of the land, which has contributed to the most recent revisions.

The Plan Commission meeting took a 15 minute break to let everyone take a closer look at the maps and ask questions.

Chris Landerud explained that there are 6 main topics to focus on, economics development and market demand, land use compatibilities and relationships, esthetic impacts, environmental impacts, road patterns and traffic flow, and utilities and cost impacts.

Ryan Garcia thanked the group and asked that those who expressed their ideas during the break, to share their ideas with the public. Plan Commission will weigh information from staff, public and consultants.

Bob Frawley, Trippe Lake Condos, wanted to know the possibilities of having all residential on the west side of Elkhorn Road.

Mary Dornacher, Trippe Lake Condos, opposed development, it would affect their property values, concerned about the affect on the environment; she doesn't want the existing environment to disappear. She would like to have an all city referendum vote on the development of this area. She could start the petitions tomorrow.

City Planner Ryan Garcia explained that ultimately the decision rests with the Plan Commission. A referendum is unprecedented for a Neighborhood Plan. This is a public process with the Plan Commission. The public and the Plan commission can discuss the impact on the land and the land values. The Plan Commission will assess and weigh all things. A referendum is difficult and out of character for this type of planning process.

Shirley Grant asked if DNR is consulted during the process.

City Planner Ryan Garcia explained that the DNR, DOT, engineers, planners are all consulted. The City contacts many different entities to determine the impact.

Doug Luttrell, Village of Trippe Lake, the original plan showed residential all along the west side of Elkhorn Road. The lake is enhanced by the properties around it. He is concerned of the "Big Box" development with their lights etc. Trippe Lake should be kept pristine (protected).

John Anzivino, Village of Trippe Lake Condos, is concerned about the commercial traffic. He suggested traffic studies to see where people come from to support this development. They liked the bypass to help keep traffic away from the community. He is concerned now that we are looking at the bypass for ways for traffic to support development.

City Planner Ryan Garcia stated that community commercial attracts traffic from all sides.

Chris Landerud explained that the traffic circulation is controlled by the traffic signal at the bypass intersection and the round-a-bout intersection at Clay Street and Elkhorn Road. There are two major control points in all plans which are determined at the time of the development. A round-a-bout is a safer, and sometimes easier cross street connections. Safety and congestion will be looked at as development occurs. Different developments will have different intensities of traffic. This will determine how Elkhorn Road is developed. They want to balance all components within a neighborhood.

City Planner Ryan stated that a general land use pattern provides the Plan Commission and the City the most logical framework for development. It is up to the land owners to present a plan. There is no time table attached to the Neighborhood Plans.

Louise Frawley, Village of Trippe Lake, stated that they purchased their condo for the lovely quiet environment, the lake and wildlife. They were told that the cornfield to the east of their development would be residential. Phase 4 if the South Whitewater Neighborhood Development Plan, the Elkhorn Road Corridor does not blend in well into the existing residential neighborhoods. It does not transition well; does not capitalize on Trippe Lake; areas should be

residential or recreational. She asked the Plan Commission to not upset the Charm and serenity of the surrounding eco system and to protect the residential area gem on the north shore of Trippe Lake. And to please not vote for this Plan.

Jerry Grant, 392 S. Buckingham Blvd., asked why the City was deviating from the Master Plan. Lake District Management should include the entire City. He is not in support of business and commercial around the lake. He does not understand putting dollars into improving the lake and surrounding it with business and commercial areas. How does the Lake District Management and business/commercial work hand in hand?

City Planner Ryan Garcia explained that the East Neighborhood Plan was done 10 + years ago. The interest is no longer consistent with the Master Plan. It is the cornerstone of master planning. A project can be evaluated to see if it is consistent with the Master Plan.

Chris Landerud explained that the East Neighborhood Plan was adopted in 1999. These plans were revised in response to input that came from within the City. The City creates the plans, within 6 months to a year, things could change. The Plans are made with a framework that is flexible so that these plans are a guiding tool.

Plan Commission Member Kaluva explained that the Plan Commission provides land use input along with planners and engineers who provide that within proposed plans public safety is guarded. These plans are living growing documents. The plan is to be flexible to allow for what people want.

Plan Commission Member Stone stated that he would be in favor of this plan as long as Clay Street and Elkhorn Road stay residential.

Zoning Administrator Bruce Parker explained that the three options for the Elkhorn Road corridor need to be worked some more. In considering development, protection of the existing uses must provided. The lake and surrounding area needs to be protected and preserved. We need to treat stormwater before it goes into the lake, stormwater cannot go directly into the lakes. The stormwater ponds in new development are there to protect the lakes. The Stormwater Utility is working on a Stormwater Ordinance which is a State mandate by the DNR.

Plan Commission Member Kaluva expressed her concerns for the Village of Trippe Lake residents. The residents expectations are that the area stay reasonably residential. We need to be good stewards of that area. The land closest to the condo's would certainly be respected.

Plan Commission Member Zaballos noted that land uses change to meet the needs of the landowners. We need to look at ways that balance residences and the City of Whitewater. We need to be able to allow the owner to maintain their property or sell the property and retire if they wants to. At the request of residents wanting more retail, the Plan Commission needs to weigh where development is best put. Retail can be done if done appropriately and properly.

Chris Landerud explained that Option A came from the 1999 East Neighborhood Plan with revised Moraine View and East Towne Market areas. Option B was in response to ideas for a more intense commercial area. Option C was a revision in response to comments from last month, about the desire, need and want to have a regional large scale commercial center.

Is the land appropriate for Big Box?

Chris Landerud explained that it is open to interpretation. Last month, they heard that depth was needed. A project would need approximately 800 to 900 feet in depth, or 14 to 16 acres. Developments can be made to fit, depending on how much you want to design a commercial site.

City Planner Ryan Garcia explained that no site is without specific challenges. There is an issue of depth particularly by the bypass. There are huge capacity power lines in this area that cannot be realigned easily. We are implying that certain land uses, but not definite development, are consistent with a suitable user for that site. Smaller retail depends on larger operations. Larger developments can be the economic engine that promotes further development. Previous plans had residential designated in some of these areas. We must determine the most logical location for the different types of development.

Chris Landerud noted that Moraine View Parkway has sewer and water service, so the sequence of phasing for development would start with the northern area first and develop from there.

The residents of the Village of Trippe Lake asked how they could keep informed. They are significant land owners. They were asked to provide a contact.

The Board voiced their concerns that: the neighborhood must be protected; we need more retail; the last plan alters the landscape in a big way; prove to the community that the plan will benefit other than the developer; and be convinced that it can't be done elsewhere. There is interest on the east side to bring other entities in; would like to have the "Big Box" not included when the plan comes back.

City Planner Ryan Garcia thanked everyone for working through all the information and providing input. They have heard from people that we need services on that side of town, which requires infrastructure. The next step is to take the information, recommendations and ideas from the Plan Commission and the Public and incorporate it into the study area. They need to see how it fits in with the entire South Neighborhood Plan and the City. Ryan stated that this is a complicated process. Property owners will be sent notice of the next meeting. They are planning for the June meeting.

#### **INFORMATION:**

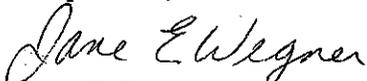
- a. Report from CDA Representative. No report.
- b Report from Tree Commission Representative. No report.
- c. Report from Park and Recreation Board Representative. Park and Recreation Board Representative David Stone explained they had discussion on the lift station plan at Trippe Park; Station Park Plaza and the gazebo and chess board; and they discussed the possibility of changing the mural parking lot area into a mini park.
- d. Report from City Council Representative. City Council Representative Kienbaum reported that the angle parking stalls have been painted on Main Street. She also received a call about a street light that has been out for nearly two years at the corner of Prince and Highland. Bruce was going to make sure the Department of Public Works was notified.
- e. Report from the Downtown Whitewater Inc. Board Representative. No Report

f. Possible future agenda items: The Nominating Committee will be meeting tomorrow evening to make a selection for Plan Commission Members. Those being considered are: Kristine Zaballos, Greg Torres and Dan Comfort. It was also suggested to put the informational items at the beginning of the meeting, so those reporting do not have to wait through the entire meeting.

The next regularly scheduled Plan Commission meeting will be May 19, 2008. City Planner Ryan Garcia thanked the Plan Commission for their commitment to the community. He will be leaving the City of Whitewater for another position.

Moved by Miller and Kienbaum to adjourn at 9:40 p.m. Motion was approved by unanimous voice vote to adjourn.

Respectfully submitted,

  
Jane E. Wegner  
Secretary

CA-C

WHITEWATER LANDMARKS COMMISSION  
February 4th, 2009

Chair, Mariann Scott called to order the monthly meeting of the Whitewater Landmarks Commission at 5:05 P.M. in the City Manager's Conference Room of the Whitewater Municipal Building. Members present were Roy Nosek, Linda Loomer, Kathleen Haas Lashley, Mariann Scott, Kimberly Krebs and Carol Christ. Rick Daniels, recently approved by the city council as a board member, was introduced and welcomed to the board. Guest – Carol Cartwright.

**Approval of Agenda**

Kathleen Haas Lashley moved to approve the agenda with Item # XI -New Business – “Next Meeting, Wed March 4, 2009 at 5:00 P.M” being moved to become Item #6 on the agenda, and Item # V was corrected to read “Approval of Minutes of January 7, 2009. Carol Christ seconded the motion. Agenda was approved.

**Oath of Office**

A recent city council motion requires all members of city committees to take an oath of office. Not being sure who administers this oath, the board decided to postpone the oath until the March meeting.

**Approval of Minutes**

Roy Nosek moved to approve and Linda Loomer seconded the January 7, 2009 minutes with the following correction: Kimberly Krebs was erroneously listed as absent.

**Authority of Landmarks Commission**

Roy Nosek contacted city attorney, Wallace McDonell, regarding rewording of the city ordinance governing commission authority to identify and secure historical objects. He replied that it was within the authority of the city council to change the ordinance, and that he would be working on an amendment of the ordinance that would give the commission such authority.

**Discussion of Accepting the Whitewater Historical Survey**

After reading the final draft of the survey, Mariann Scott questioned the use of the words “gave up” when referring to the Indian tribes moving out of the area, on p. 6. After checking some historical references, Carol Cartwright agreed that the words “ceded” would be more appropriate and the change would be made.

Carol Christ had made a list of some of the typographical and grammatical errors. Carol Cartwright had been working on the corrections but felt that many of them were due to the use of a word processor. There was discussion on the best way to edit the document. Rick Daniels volunteered to do the editing as it was in his area of journalism. He had contacts at UW-W that could be of assistance. Kathleen Lashley also agreed to assist in the editing process.

It was noted that the placement of the pictures throughout the report was confusing, and Carol Cartwright suggested they be placed in an appendix at the end. Some of the photos were missing addresses and dates. Carol Cartwright would make sure that the photo pages included similar information. Roy Nosek moved to accept the survey with the agreed upon changes. The motion was approved, with a second by Kathleen Lashley.

The only thing left to complete on the survey are the building inventory cards which will be produced for each property and made available on the Wisconsin Historical Society website. Original black and white photos from the 1989 survey will be included and updated properties would have new colored photos. Also included will be properties from the three proposed historic districts. The state now accepts scanned and digital color photographs, and when completed there will be over 100,000 photos online from all over the state. In addition Carol will supply the commission with one zoxed copy of the cards/pictures and a digital copy of the Power Point presentation. Carol was thanked for all of her hard work on the Survey.

**Landmarks Commission Records**

Kathleen Haas Lashley has been reviewing the records and will report on them at the March 4, meeting.

## Discussion of Postponed Items

Until the authority of the Landmarks Commission is expanded, the discussion of the historical objects will remain postponed.

## Council Representative, Roy Nosek

Roy Nosek noted that his term as a council representative was coming to an end. He thanked the board for their dedication and expressed that it had been a privilege to serve on the Commission. He was thanked for his contributions.

## Future Agenda Items

Discussion of the recommendations of the Whitewater Historical Historical Survey

## Adjournment

Roy Nosek moved for adjournment with a second by Kimberly Krebs. The meeting was adjourned at 6:10 P.M.

Respectfully submitted,

Carol Christ  
Secretary

## WHITEWATER LANDMARKS COMMISSION

March 4, 2009

Chair, Mariann Scott called to order the monthly meeting of the Whitewater Landmarks Commission at 5:05 P.M. in the City Manager's Conference Room of the Whitewater Municipal Building. Members present were Roy Nosek, Kimberly Krebs, Kathleen Haas Lashley, Rick Daniels, and Carol Christ. Linda Loomer arrived at 5:40. Guest – city attorney Wallace McDonell.

Approval of Agenda and Minutes

To accommodate our guest, it was recommended that agenda item number VII (Review of Landmark's Ordinance and discussion of possible changes) be moved up to number V on the agenda. The rearrangement of the agenda and the February 7 minutes were approved on a motion by Roy Nosek and a second by Kimberly Krebs.

Review of Landmark's Ordinance

Mariann Scott introduced city attorney, Wallace McDonell. Mr. McDonell began by stating that "Yes", it is in the Landmarks Commission's spectrum of authority to designate, preserve and protect historically significant city-owned property, and "Yes", the Landmarks Commission can propose an amendment of the current municipal code to the city council.

Mr. McDonell presented a first draft of the proposed amendment to Title 17 of the Whitewater Municipal Code, by adding: "The Landmarks Commission may designate property as city-owned historically significant personal property if it found by the Landmarks Commission to have special historic, archaeological or aesthetic character. "City owned historically significant personal property' means personal property owned by the City of Whitewater that is deemed by the Commission to have special historical, archaeological or aesthetic character such that it is in the City of Whitewater's best interest to preserve, protect and safeguard it."

The way the proposed amendment is written, the city council will have overview after the Landmarks Commission's recommendation: "Once personal property has been designated historically significant personal property by the Landmark's Commission, it shall not be altered or disposed of by the city without permission by the Landmarks Commission or, in the alternative, by action of the City Council. Prior to authorizing the disposition or alteration of the historically significant personal property, the City Council shall receive and consider the recommendation of the Landmarks Commission. The Landmarks Commission shall issue a recommendation within 30 days of a written request. If the Landmarks Commission fails to issue a recommendation within (30) days, the Council may act on the request without considering the Landmarks Commission's recommendation."

After reviewing the proposed amendment the committee discussed the possibility of having a public hearing but decided that this was unnecessary as the amendment will first be read at a council meeting and then will not be acted upon until the next council meeting.

The biggest concern was how to notify employees that an object was under the auspices of the Landmarks Commission. It was recommended that there be a list that catalogues historically significant city-owned objects and that this list needs to be posted and kept up to date. It was suggested that the city clerk who is the archivist for the city be in charge of maintaining this list. There also needs to be some sort of demarcation on the items. It was suggested that the Director of Neighborhood Services be in charge of informing city employees of the items on the list and encouraging them to contact the Landmarks Commission if and when they come in contact with city property that might be deemed historically significant. Mr. McDonell will work on adding the above items to the amendment.

Discussion also resulted in a motion by Linda Loomer and second by Roy Nosek, changing the 30 day recommendation to 60 days. Motion approved. Mr. McDonell will be in contact with the committee regarding the proposed changes.

Oath of Office

The Landmarks Commission was presented with the Oath of Office. There was some discussion as to the reason for people who are appointed rather than elected to take such an oath. Some of the items in question were "freedom of speech" and the reference to God in the oath. The committee is looking for clarification before taking such an oath.

Next Landmarks Commission Meeting

The next meeting date is set for April 1 at 5 PM.

## Whitewater Historical Survey

Kathleen Haas Lashley and Rick Daniels proofread the corrected survey and felt it was ready for print. Mariann Scott questioned what to do with the first copies. Until we have the final copy, the approval needs to be postponed.

## Landmarks Commission Records

Kathleen Haas Lashley continues to review the past records.

## Postponed Items

City-owned personal property will remain on the postponed items list until the municipal code has been amended giving the Landmarks Commission authority to designate, preserve and protect such property.

## Future Agenda Items

Mariann Scott suggested a future agenda item --- How to promote public education, interest and support for preservation. She also distributed copies of the spring workshops offered by the Wisconsin Historical Society and the Wisconsin Federation of Museums.

## Adjournment

Linda Loomer moved for adjournment with a second by Roy Nosek. The meeting was adjourned at 6:17 PM.

Respectfully submitted,

Carol Christ  
Secretary



**MINUTES**  
**Monday, March 23, 2009**  
**4:30 PM – CDA Board of Directors**  
**2<sup>nd</sup> Floor - Cravath Lake Front Conference Room**  
**Whitewater Municipal Building**  
**312 W. Whitewater Street**  
**Whitewater, WI 53190**

**1. Call to order and roll call**

Tom Miller called the meeting to order at 4:29PM.

Present: Jeff Knight, Tom Miller, Al Stanek (arrived at 4:36PM), Jim Stewart, Max Taylor

Absent: Al Marshall, Jim Allen

Others Present: Mary Nimm, Kevin Brunner, Ken Harwood with Future Wisconsin, Rod Hise with, Mitch Grulke, Jim Caldwell (arrived @ 5:00PM)

**2. Approval of the Agenda**

Jim Stewart motioned to approve the agenda. Taylor seconded.

The motion to approve the agenda passed unanimously on a voice vote.

**3. 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.

**NO Citizen Comments**

**4. Approval of the February 23, 2009 CDA Minutes**

Jeff Knight motioned to approve the February 23, 2009 minutes. Stewart seconded.

The motion to approve the February 23, 2009 minutes passed unanimously on a voice vote.

**5. Presentation, Discussion and Possible Action on FutureWhitewater.com**

Ken Harwood from "FutureWisconsin" introduced the CDA to the FutureWhitewater.com web pages. Harwood was invited to the CDA meeting to show the CDA the FutureWisconsin sites and to talk about the City of Whitewater's possible involvement. Harwood notes he writes an Economic Development newsletter, Wisconsindevelopment.com. Harwood has created a source for Economic Development websites for any given community. There are currently 53 "future" sites. Recently implemented is a new concept at the County level versus City level. The noted difference is, Harwood would input community information for the City sites whereas in the new county level model information is simply pointed out. Each county is a single source for Economic Development information about the community. Data will be pointed to and users will be directed to source. Most of the site is "free". Commercial properties are listed by property drive. Realtors pay to list their properties on property drive and data is made available to FutureWisconsin. Contact persons and commercial brokers for property can also list the properties. Properties can also be searched. This is a user supported site. Major projects in a given community, will have featured properties. Business cards can be added, divided between anything related to ED. Local utilities are also added business cards. There is a section for community links - UWW, Schools, recreation facilities, non-profits. There are six primary sponsors for the site at less than \$100/mo.

Brunner - cost to the community?

Harwood - no cost, and no sponsors needed. Six sponsors are already on the site.

Brunner - will solicit local sponsors?

Harwood - would like links from Whitewater to FutureWisconsin

Knight - what can Whitewater do to differentiate themselves? Might the City pay for a feature add to make Whitewater the first site?

Harwood - no, communities are represented by the county on the map and communities are then in alphabetical. Whitewater site is the first of the community sites where the data is in the hands of the community.

Brunner - how are County ED Orgs going to fit into this?

Harwood - goal is not to duplicate, goal is to point to.

**6. Discussion and Possible Action on Media Campaign for Marketing of Whitewater Business Park**

Knight introduces Rod Hise. Knight noted that there has been a discussion of BPM Committee on how do we get the message out of all the things that are happening with Whitewater. How do we get WW recognized in large publications? Hise is in PR and we are looking to him for suggestions and guidance. We are asking what would be a smart way to stage those events in major publications with our purpose to go beyond and find an audience in IL and Milwaukee.

Hise stated he has worked with the Research Park in Madison. There is a compelling story to tell, question is the difference between what we are selling and what the reporters are buying. There is a need to identify target publications and target reporters - we need to find reporters interested in ED issues and business location issues. Then we can put together a plan to roll-out the flow of news overtime. The CDA should look for

opportunities outside of news events to hitch our story. Reporters look for a trend story. It is also important to evaluate our goals. The question to ask ourselves, is what's the best way to roll news out? Are we going to be better for a particular publication to develop a flow of news over time or go with a single item? Before making an investment, make sure the news releases are tied to some sort of sustainable tactical plan, identify targets, and then finalize goals. It is very important to confirm the positioning and then ask what are the key messages? Important step, send introductory email to reporter(s). Provides with initial information about Whitewater and our message.

Stanek – how do you evaluate?

Hise – look at the papers and TV for coverage – quantifiable coverage; ask reporter(s) how they are thinking about your news – qualify coverage.

Knight – can we estimate \$\$ value in coverage? How does that equate to advertising dollars?

Hise – There is a monetary value of a well-placed story and series of stories is valuable property.

Knight – how do we price a well-placed article versus a select mailing group so we can prioritize marketing campaign?

Knight – each of our stories is a little different – BP infrastructure, TID story, new technology park...

Brunner – one key thing we have to remember is that in Whitewater we have the ability for a large development where most communities in SE WI don't.

Knight – how do we prevent the scoop and keep the story big enough without losing the story for a big enough play?

Hise – important to try to preserve, but getting news coverage is difficult and if for some reason an inquiry call comes in – run with it.

Knight – can we take a team to the said publications? How do you partner with the Chancellor's office to make the events special?

Hise – be sure to have luminary figures to attend the events.

Brunner – requested the CDA get a proposal from Hise for services.

Hise – think about our news as an expression of a brand. Fundamentally, we are building on an expression of a brand. A comprehensive public relations understands multiple audiences to be newsworthy.

Stanek – develop a strategic approach to our PR.

Hise – evaluate and finalize goals based on review of targets, confirm messaging based on goals, implement execution of goals.

Nimm to send, Applied PhD work, web work, DTW work to Hise – integrate messages

Knight – maybe the focus is the retention and creation of jobs

Hise – can't charge forward without inclusion of particular stories.

Brunner – implementation of current past projects and studies. Little pieces need to be compiled to make larger pieces.

Hise will put together a proposal for CDA.

## 7. Website Redesign Status Update

Nimm – updated the board on the status of the new website. Grulke met with Chenoweth for instructions on web maintenance. Chenoweth is working with the City IT to take the site live.

Knight – we are unique in that UWW is assisting non-profits set-up websites nation-wide.

Brunner – tapping into resources at UWW to create something special.

## 8. 2009 Marketing Campaign Launch Discussion

Knight – need to bring back this item to the CDA after strategic planning has been done at the BPM committee. Perhaps we hold-off on the launch until after the credit market starts to move. Wait until new business decisions are being made.

Brunner – would it be prudent to send message to Applied PhD asking opinion on using the campaign?

Stanek – marketing is a process, not an event

Stewart – timing might be now...

Stanek – we should move forward, avoid the risk of getting stale, additional costs will be incurred if we wait, decision makers might actually have the time to read our news if we move now

Knight – we should consider the roll-out of the mailing as an event with coverage from media creating a stir

Hise – story is community is launching campaign with four clear messages and/or competitive advantages.

Resources behind a concerted effort for a well-executed campaign.

Stanek motioned to move forward with the launch of the 2009 Marketing Campaign. Stewart seconded noting that Nimm should touch base with Applied PhD.

Ayes: Knight, Miller, Stanek, Stewart, Taylor

Noes: None

Abstain: None

Absent: Allen, Marshall

## 9. Discussion on Business Park/Marketing Budget & Available Funding Sources

Knight noted that the CDA has \$15,000 in its marketing budget and questioned how do we pay for the remainder with the estimated total marketing campaign to come in at \$30,000. Knight asked if the CDA might approach the Council asking if the remainder of the needed budget come from TID 4?

Stanek motioned that the CDA recommend to Council that \$15,000 be appropriated to the CDA marketing budget from TID 4 for the marketing of the Whitewater Business Park and Public Relations for 2009. Knight seconded.

Ayes: Knight, Miller, Stanek, Stewart, Taylor  
Noes: None  
Abstain: None  
Absent: Allen, Marshall

# CA-C

## 10. TID Value Discussion

Numbers have been assembled by Baird & Associates on the value of TID's 1, 2, 3, & 4. Brunner noted that an analysis will be done, corrections to the typos will be made and a PowerPoint will be compiled and presented to the committee.

## 11. Stimulus Bill Summary and Discussion

Nimm noted that at the request of Alan Marshall, Mitch Grulke put together a summary of the stimulus bill.

### American Recovery and Reinvestment Act

- Create or save more than 3.5 million jobs over the next two years
- Take a big step toward computerizing Americans' health records, reducing medical errors, and saving billions in health care costs
- Revive the renewable energy industry and provide the capital over the next three years to eventually double domestic renewable energy capacity
- Undertake the largest weatherization program in history by modernizing 75 percent of federal building space and more than one million homes
- Increase college affordability for seven million students by funding the shortfall in Pell Grants, increasing the maximum award level by \$500, and providing a new higher education tax cut to nearly four million students
- As part of the \$150 billion investment in new infrastructure, enact the largest increase in funding of our nation's roads, bridges, and mass transit systems since the creation of the national highway system in the 1950s
- Provide an \$800 Making Work Pay tax credit for 129 million working households, and cut taxes for the families of millions of children through an expansion of the Child Tax Credit
- Require unprecedented levels of transparency, oversight, and accountability.

Source: <http://www.recovery.gov/>

- March 3<sup>rd</sup> 2009, Government agencies began to report the use of funds
- March 3<sup>rd</sup> 2009, release of \$27 billion to upgrade infrastructure

**Wisconsin:** Receiving approximately \$3.76 billion. See attached breakdown.

- **Wisconsin Highway Funding:** \$529,111,915
  - 30% or \$158 million for local roads and bridges
  - \$38.7 million to Milwaukee urbanized area
  - \$9.7 million to Madison urbanized area
  - Remainder of \$109 million to the rest of the state
- **Transportation, Highway Formula Grants:** (WI DOT)
  - Federal share up to 100% of cost
  - Surface Transportation Program, WI DOT Economic Recovery (ER)

Source: <http://www.recovery.wisconsin.gov/>

**12. Discussion and Possible Action on Memorandum of Understanding relationship between CDA and City**

Memorandum of Understanding

This memorandum of understanding made this 1<sup>st</sup> day of April, 2009 by and between the City of Whitewater, hereinafter called City, and the Whitewater Community Development Authority, hereinafter called CDA.

**Witnesseth:**

The City and the CDA have enjoyed a positive working relationship for many years and the two parties are desirous of better defining this relationship. The CDA has been established pursuant to Wisconsin State Statutes 66.1335 by the City for the purpose of carrying out blight elimination, urban renewal programs and projects and housing projects. In addition, the CDA has been charged by the City to act as the agent of the City in planning and carrying out community development programs and activities approved by the City Council under the federal housing and community development act of 1974 as well as to act as agent of the City to carry out the tax increment financing (TIF) planning and programming activities of the City with final approval of TIF budgets and plans by the City Council.

The City and CDA hereby agree to the following:

1. The CDA will provide written quarterly reports to City Council commencing in 2009. These reports will be presented to the Council at one of its regularly scheduled meetings. In addition, an annual report detailing the CDA's activities and finances, as required by Chapter 2.48 of the Whitewater Municipal Code will be presented to the City Council no later than April 15<sup>th</sup> of each year.
2. The CDA will conduct an annual meeting at which time the economic and community development goals and objectives of the City will be discussed and determined. City Council members as well as community members will be encouraged to attend the annual CDA meeting. The CDA annual meeting shall be held in conjunction with the annual City budget process in the fall of each year.
3. The CDA's financial records will be maintained by the City Finance Director. Quarterly Tax Incremental Finance District reports will be provided by the Finance Director to both the City Council and CDA. Monthly financial reports will also be provided to the CDA of its financial activities.
4. All CDA funds will be accounted for in separate enterprise funds maintained by the City Finance Department. These funds shall be maintained according to General Accepted Accounting Principles (GAAP) and will be subject to annual audit by the City's auditor. Approval of special enterprise fund expenditures shall be the responsibility of the CDA and monthly revenue/expenditure reports will be produced by the City Finance Department and approved by the CDA Board of Directors.
5. The City Council will appoint two of its members to serve on the CDA Board of Directors. These City Council representatives will be responsible for attending and participating fully in all CDA meetings and with reporting periodically to the Council on CDA activities.
6. The parties to this agreement recognize that there may be occasions in the future when, due to conflicting positions, the CDA may have a different position on a matter than the City Manager on an issue which concerns the City Council. This section is set forth for the purpose of providing a process for the parties to follow when such circumstances arise. If a conflict arises, an ad hoc committee shall be formed that will consist of a City Council member appointed by the City Council, a Community Development Authority member appointed by the Community Development Authority (who shall not be a member of the Common Council), and the City Manager. If it is not practical for the City Council to appoint a member due to the immediacy of the circumstances, the City Council President shall act as the City Council representative. If it is not practical for the Community Development Authority to appoint a member due to the immediacy of the circumstances, the Community Development Authority Chairperson shall act as the Community Development Authority representative. The committee so formed shall attempt to resolve the conflict. If the committee is unable to resolve the conflict, the CDA committee member shall be authorized to communicate the CDA's position to the City of Whitewater Common Council. Upon completion of the work of the committee on the issue in question, the committee shall adjourn sine die.
7. The CDA assigns the responsibilities for its Executive Director to the City Manager. In consultation with the City Manager, the CDA Board of Directors is responsible for the hiring/firing of the CDA Coordinator subject to the employment agreement executed for this position. The CDA Coordinator will report on a daily basis to the City Manager with policy direction to come from the CDA Board of Directors.
8. The annual CDA budget will be developed by the CDA Coordinator and then reviewed and adopted by the CDA Board of Directors before it is submitted to the City Manager for eventual presentation to the City Council. Final approval of annual CDA budgets shall be made by the City Council.

Agreed to this 8th day of April, 2009.

City of Whitewater

Whitewater Community  
Development Authority

\_\_\_\_\_  
Kevin M. Brunner, City Manager

\_\_\_\_\_  
Thomas Miller, Chair

CA-C

Jeff Knight motioned to accept the Memorandum of Understanding relationship between the CDA and the City. Stewart seconded.

Ayes: Knight, Marshall, Miller, Stanek Stewart, Taylor

Noes: None

Abstain: None

Absent: Allen, Marshall

### 13. University Technology Park Update

Brunner noted that the Board is proceeding with the option to purchase and progress has been made. The City, CDA, UWW and Tech Park Board have applied for an EDA grant. The grant will partially pay for the innovation center and infrastructure up to \$3.2m. The UW-W continues to work on core competencies, with two potential tenants. There is a meeting this week to look at three possible sites.

Stanek noted that there are perhaps environmental concerns with the Hardscapes site and questioned if the Board was considering it as an alternative site.

Knight noted that he is pleased at level of engagement on campus. Strong dynamics.

### 14. CDA Coordinator

#### a. Web Site Redesign & Launch Date

Discussed in item #7

#### Homebuyers Education – April 18<sup>th</sup>

Nimm noted in the CDA 2009 Goals and Objectives, it was listed that the CDA would attempt hosting up to four First-Time Homebuyers Education classes. This will be the first for 2009. The course is scheduled for Saturday, April 18<sup>th</sup> from 9-3 at the Cravath Lake Front Center.

#### b. Asbestos Supervisor Training – Week of April 27<sup>th</sup>

Nimm noted that she is working with Milwaukee Lead and Asbestos to host a one-week long Asbestos Supervisor Training in Whitewater. The class is scheduled for the week of April 27<sup>th</sup> with class to be held at the Cravath Lake Front Center all week with the exception of class in the Council Chambers on Tuesday (because of a scheduling conflict). She selected the week-long supervisor class, as the other trainings would be insufficient for the contractors working on Housing Rehab projects as part of the CDBG Housing Rehab Loan Program.

#### c. Report on Attendance at Janesville Regional Workshop Describing Assistance Programs and Grant Funding

Kevin, Bud Gayhart and Nimm attended the Janesville Regional Workshop describing Assistance programs and grant funding. Many state and federal agencies had representatives describing the programs they have available for grant and loan assistance. After the brief presentations, there was an opportunity to meet with representatives to talk about the City projects and the potential for funding.

#### d. Report on Attendance at Audio Conference on Economic Stimulus Funds: How Local Governments Can Get Their Fair Share

Nimm attended an audio conference at the Rukert-Mielke offices in Waukesha. Enclosed in the packet was the PowerPoint presentation from the audio conference as well as notes.

#### e. Possible Attendance at 2009 IEDC Technology-Led Economic Development Conference

Nimm noted that she expressed an interest in attending the 2009 IEDC Technology-Led ED Conference. The Conference is a world conference on science and technology parks. IEDC is partnering with The Triangle Research Park and the International Association of Science Parks to put on this event. Brunner suggested that either Gayhart or Nimm should attend as this will be a great resource and the City could learn from experts in the field.

### 15. Adjourn to closed session at approximately 6:42PM to reconvene at approximately 7:05 PM Per Wisconsin Statute 19.85 (1)(e). Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session

Present: Jeff Knight, Tom Miller, Al Stanek, Jim Stewart, Max Taylor

Absent: Al Marshall, Jim Allen

Others Present: Mary Nimm, Kevin Brunner

#### a. 503 S. Janesville Street

### 16. Reconvene at 7:05PM and Roll-Call

Present: Jeff Knight, Tom Miller, Al Stanek, Jim Stewart, Max Taylor

Absent: Al Marshall, Jim Allen

Others Present: Mary Nimm, Kevin Brunner

### 17. Confirm April Meeting Date of Monday, April 27 @ 4:30PM

### 18. Future Agenda Items

Knight – attorney general letter on ED Orgs

Stanek – Chinese sister-city

Knight – weatherization funding – focus on energy

**19. Adjourn**

Taylor motioned to adjourn at 7:12PM. Miller seconded.

The motion to adjourn passed unanimously on a voice vote.

CA-C

*Respectfully Submitted,*

*Mary Nimm  
CDA Coordinator*

**PUBLIC PARTICIPATION PLAN**  
**City Of Whitewater Comprehensive Planning Project**

**Section 1: Introduction**

The City of Whitewater adopted its last comprehensive plan in 1998. The City is now undergoing a complete update of its Comprehensive Plan to comply with Wisconsin's smart growth comprehensive planning law and to address new opportunities, issues, and changes in the community since 1998. One of the key components of the comprehensive planning process is active involvement of community residents and stakeholders in the development of the plan document. Public involvement in the planning process helps to ensure that the completed Comprehensive Plan accurately reflects the vision and desires of the community.

**Section 2: Purpose**

Pursuant to Sec. 66.1001(4)(a), Wisconsin Statutes, the purpose of the Public Participation Plan is to outline the procedures that will be used in the planning process to ensure that there are opportunities for public participation at every stage of the planning process. This Public Participation Plan specifies policy guidelines to actively involve the public in establishing a community vision, identifying issues and opportunities facing the community, and developing strategies to achieve the vision component of the Comprehensive Plan.

**Section 3: Policy Guidelines for Public Participation**

To foster public participation in the planning process, the following guidelines will be followed and techniques will be used:

- All Plan Commission meetings in which the Comprehensive Plan is the primary item on the agenda will be publicized in advance and open to the public. These meetings will be held to discuss the nine elements of the Comprehensive Plan and other related issues.
- City staff and its consultants will prepare and disseminate information to the public on the participation efforts for the comprehensive plan. Interested citizens should contact City Manager Kevin Brunner, at (262) 473-0500 or [kbrunner@ci.whitewater.wi.us](mailto:kbrunner@ci.whitewater.wi.us) for more information.
- An Open House and Public Hearing on a draft Comprehensive Plan will be held to provide further opportunity for community feedback prior to plan adoption. Following this public input, revisions will be made as necessary, with additional public hearing(s) where appropriate.
- The City of Whitewater Plan Commission will be asked to recommend adoption of the draft Comprehensive Plan to the Common Council. At that time, comments will be solicited from adjacent and overlapping governments to ensure that issues of mutual concern have been adequately addressed in the plan. If necessary, further modifications will be made to the draft plan prior to preparation of the ordinance and the holding of the public hearing that precedes final adoption of the plan by the Common Council.

**RESOLUTION TO ESTABLISH PUBLIC PARTICIPATION PROCEDURES FOR COMPREHENSIVE PLAN**

**Whereas**, the City of Whitewater has decided to prepare a comprehensive plan under the authority of and procedures established by §66.1001(4), Wisconsin Statutes; and

**Whereas**, §66.1001(4)(a), Wisconsin Statutes, requires that the governing body of the local governmental unit adopt written procedures designed to foster public participation at every stage of comprehensive plan preparation, and that such written procedures shall provide for wide distribution of draft plan materials, an opportunity for the public to submit written comments on the plan materials, and a process for the governing body to respond to such comments; and

**Whereas**, the City of Whitewater believes that regular, meaningful public involvement in the comprehensive plan process is important to assure that the resulting plan meets the wishes and expectations of the public; and

**Whereas**, the “Public Participation Plan: City of Whitewater Comprehensive Planning Project” includes written procedures to foster public participation, ensure wide distribution of draft plan materials, provide opportunities for written comments on such materials, and provide mechanisms to respond to such comments.

**Now Therefore Be It Resolved**, that the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin hereby adopts the written procedures included in the “Public Participation Plan: City of Whitewater Comprehensive Planning Project” as its public participation procedures meeting the requirements of §66.1001(4)(a), Wisconsin Statutes.

**Be It Further Resolved**, that Common Council President Patrick Singer and City Manager Kevin Brunner be directed to appoint a chair of the City of Whitewater Comprehensive Planning Committee as well as to engage others from Whitewater as maybe appropriate to this important committee.

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

- AYES:
- NOES:
- ABSENT:
- DATE:

\_\_\_\_\_  
Kevin M. Brunner, City Manager

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

# CITY OF WHITEWATER

## HISTORIC PRESERVATION MONTH PROCLAMATION

**WHEREAS**, historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and

**WHEREAS**, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and

**WHEREAS**, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

**WHEREAS**, "This Place Matters" is the theme for National Preservation Month 2009, cosponsored by the City of Whitewater, Wisconsin and the National Trust for Historic Preservation

**NOW, THEREFORE**, I, Kevin Brunner, City Manager of the City of Whitewater, Wisconsin do proclaim May 2009 as National Preservation Month, and call upon the people of the City of Whitewater to join their fellow citizens across the United States in recognizing and participating in this special observance.



Kevin M. Brunner, City Manager



Michele R. Smith, City Clerk

**ARBOR DAY PROCLAMATION**

**Whereas**, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

**Whereas**, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

**Whereas**, Arbor Day is now observed throughout the nation and the world, and

**Whereas**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

**Whereas**, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

**Whereas**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

**Whereas**, trees, wherever they are planted, are a source of joy and spiritual renewal

**Now, Therefore**, I, Kevin M. Brunner, City Manager of the City of Whitewater, do hereby proclaim and urge all citizens in Whitewater to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

**Further**, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this 30th day of April, 2009

  
\_\_\_\_\_  
Kevin M. Brunner, City Manager

**RESOLUTION DESIGNATING OFFICIAL NEWSPAPER**

WHEREAS, it is deemed necessary and expedient to designate an official newspaper for the City of Whitewater, Walworth and Jefferson Counties, Wisconsin.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that The Whitewater Register be, and the same hereby is, designated the official newspaper of said City.

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

AYES:

NOES:

ABSENT:

ADOPTED:

\_\_\_\_\_  
Kevin M. Brunner, City Manager

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

**RESOLUTION DESIGNATING OFFICIAL DEPOSITORIES**

WHEREAS, it is deemed necessary and expedient to designate official depositories for the City of Whitewater, Walworth and Jefferson Counties, Wisconsin.

NOW THEREFORE, it is hereby resolved by the Common Council of the City of Whitewater that the Commercial Bank, the First Citizens State Bank, Associated Bank, all in said City, be and the same hereby are, designated the official depositories for the City, as well as the State of Wisconsin-Local Government Investment Pool, and MBIA-Class of Wisconsin. Additional depositories for investment purposes may include U.S. Bank of Milwaukee (formerly known as Firststar Bank), and Marshall & Isley Bank of Milwaukee.

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

AYES:

NOES:

ABSENT:

ADOPTED:

\_\_\_\_\_  
Kevin M. Brunner, City Manager

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

RESOLUTION AUTHORIZING REPRESENTATIVE TO FILE  
APPLICATIONS FOR FINANCIAL ASSISTANCE FROM  
STATE OF WISCONSIN ENVIRONMENTAL IMPROVEMENT FUND

WHEREAS, it is the desire of the City of Whitewater, Wisconsin, a municipal corporation, to file several applications for state financial assistance for its wastewater treatment facilities under the Wisconsin Environmental Improvement Fund (ss. 281.58, 281.59, 281.60, and 281.61 Wis. Stats.);

WHEREAS, it is necessary to designate a representative for filing said applications;

BE IT THEREFORE RESOLVED by the Common Council of the CITY of WHITEWATER that the City Manager is hereby appointed as the authorized representative for the City for the purpose of filing these applications, and that the representative is further authorized and empowered to do all things necessary in connection with said applications.

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

- AYES:
- NOES:
- ABSENT:
- DATE:

\_\_\_\_\_  
Kevin M. Brunner, City Manager

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

**RESOLUTION DECLARING OFFICIAL INTENT TO REIMBURSE  
EXPENDITURES FROM PROCEEDS ANTICIPATED BORROWING AND/OR GRANTS FOR  
WASTEWATER TREATMENT PLANT EQUIPMENT REPLACEMENT PROJECT**

WHEREAS, the City of Whitewater, Walworth County, Wisconsin (the "City") plans to undertake the replacement of wastewater treatment facility equipment; and

WHEREAS, the City expects to finance the Project with a combination of Clean Water Fund grants and loans administered through the Wisconsin Department of Natural Resources (the "Financing Funds"); and

WHEREAS, because the Financing Funds are not expected to be issued prior to December 1, 2009, the City must provide interim financing to cover costs of the Project incurred prior to receipt of the proceeds of the Financing Funds; and

WHEREAS, it is necessary, desirable, and in the best interests of the City to advance moneys from its funds on hand on an interim basis to pay the costs of the Project until the Bonds are issued.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater, that:

Section 1. Expenditure of Funds. The City shall make expenditures as needed from its Wastewater Capital Equipment Replacement funds on hand to pay the costs of the Project until Financing Fund proceeds become available.

Section 2. Declaration of Official Intent. The City hereby officially declares its intent under Treas. Regs. Section 1.150-2 to reimburse said expenditures with proceeds of the Financing Funds, the principal amount of which is not expected to exceed \$5 million dollars.

Section 3. Unavailability of Long-Term Funds. No funds for payment of the Project from sources other than the Financing Funds are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside by the City pursuant to its budget or financial policies.

Section 4. Public Availability of Official Intent Resolution. This Resolution shall be made available for public inspection at the City Clerk's office within 30 days after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19, and shall remain available for public inspection until the Financing Funds are issued.

Section 5. Effective Date. This resolution shall be effective upon its adoption and approval.

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

AYES:  
NOES:  
ABSENT:  
DATE:

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Kevin M. Brunner, City Manager

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Michele R. Smith, City Clerk

RESOLUTION ADOPTING A NATURAL HAZARDS MITIGATION PLAN FOR WALWORTH COUNTY AND THE CITY OF WHITEWATER

WHEREAS, the United States Congress passed the Disaster Mitigation Act of 2000 (DMA2000), which requires that a local unit of government must have an approved all hazard mitigation plan before it can receive federal grant monies for pre-disaster mitigation projects; and

WHEREAS, the City worked with Walworth County Emergency Management to prepare a countywide mitigation plan in conformance with state and federal guidelines; and

WHEREAS, the Common Council considered the plan at its meeting on May 5, 2009; and

WHEREAS, the Common Council makes the following findings:

1. Natural disasters do pose a tangible threat to residents and property.
2. Undertaking hazard mitigation actions before disasters occur will reduce the potential for harm to residents and property and save taxpayer dollars.
3. Preparation of this plan is in the public interest.
4. This plan is intended to serve as a general strategy and may be amended from time to time.
5. Nothing in this plan obligates the City to undertake any of the recommended activities and/or projects.
6. Adoption of this plan is needed to apply for federal funding for mitigation projects.

NOW THEREFORE, BE IT RESOLVED, the plan entitled "Walworth County Hazard Mitigation Plan: 2009-2013" is adopted; and

BE IT FURTHER RESOLVED, The City Clerk is directed to send a signed copy of this resolution, at her earliest convenience, to Lt. Kevin Williams, Walworth County Emergency Management Coordinator, Walworth County Sheriff's Department, Emergency Management; PO Box 1004, Elkhorn, WI 53121; and

BE IT FURTHER RESOLVED, the Common Council authorizes the City Clerk to make non-substantive revisions to the plan as may be required to comply with the requirements of Wisconsin Emergency Management and/or the Federal Emergency Management Agency. Should the clerk make such authorized change the clerk shall notify the Common Council and City Manager of such change at the clerk's earliest convenience; and

BE IT FURTHER RESOLVED, the Common Council understands that it must within five years of passage of this resolution review the adopted plan and amend it, as may be necessary, and submit it to Wisconsin Emergency Management and the Federal Emergency Management Agency for recertification.

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

AYES:  
NOES:

ABSENT:  
ADOPTED:

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Kevin M. Brunner, City Manager

---

Michele R. Smith, City Clerk



# Walworth County Sheriff's Office

1770 County Road NN • Post Office Box 1004 • Elkhorn, Wisconsin 53121-1004

David Graves  
Sheriff

Kurt Picknell  
Undersheriff

R-5

April 27, 2009

Kevin M. Brunner, City Manager  
City of Whitewater  
312 W. Whitewater Street  
Whitewater, WI 53190

Subject: Countywide Natural Hazards Mitigation Plan

Dear Mr. Brunner:

On April 21, 2009, the Walworth County Board of Supervisors adopted the countywide natural hazards mitigation plan by unanimous vote. This action culminates an 18-month process this office initiated on behalf of the municipalities in the county.

If the City wants to adopt the plan, you should do so by resolution. Previously, I sent you a sample resolution for your consideration. It may be revised and reformatted to suit your needs. The resolution is also available on the project website as a Microsoft Word document <http://www.co.walworth.wi.us/walco.nsf/Walco%20Home%20Frameset?OpenFrameSet>. To download the file, navigate to the Emergency Management Department in the listing of county departments and then click on the "Hazard Mitigation Plan" link located on the left side of the webpage. The link to the file with the resolution is listed under "Documents for Cities and Villages."

Although you may adopt the plan at any time, I would hope that you would do so by May 28, 2009. Once you have adopted the resolution, please send me a copy at your earliest convenience. If you should have any question about the plan, or what you would need to do to adopt the plan, don't hesitate to contact me.

Last February, I mailed you a draft copy of the plan. Since then, a number of minor changes have been made to the text and some of the maps. I have included seven copies of the executive summary of the plan as adopted by the County Board. It lists the goals, objectives, and polices, along with a listing of mitigation activities.

In the next several weeks, I will be sending you a number of revised pages. When you receive them, remove the old pages from the three-ring binder and insert the new ones.

LAW ENFORCEMENT  
OPERATIONS

ADMINISTRATION  
Telephone 741-4410  
Fax 741-4645

COURT SERVICES  
Telephone 741-7141

CENTRAL RECORDS  
Telephone 741-4470  
Fax 741-4492

COMMUNICATIONS  
Telephone 741-4625  
Fax 741-4475

DETECTIVE BUREAU  
Telephone 741-4400  
Fax 741-4492

DRUG UNIT  
Telephone 741-4600  
Fax 741-4643

PATROL DIVISION  
Telephone 741-4400  
Fax 741-4492

PROCESS DIVISION  
Telephone 741-4616  
Fax 741-4492

TRAINING DIVISION  
Telephone 741-4680  
Fax 741-4615

EMERGENCY GOVERNMENT  
Telephone 741-4616  
Fax 741-4645

JAIL OPERATIONS

ADMINISTRATION  
Telephone 741-4510  
Fax 741-4644

CLASSIFICATION  
Telephone 741-4547  
Fax 741-4640

INTAKE  
Telephone 741-4530  
Fax 741-4671

WORK RELEASE  
Telephone 741-4580  
Fax 741-4642

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Because we need to keep the plan up to date, I will be contacting you in about a year to see if you would like to suggest any changes. However, don't hesitate to contact me before then if you would like to add a mitigation activity to the listing in chapter 6. As noted in the plan, \$1 spent on mitigation activities saves between \$2 to \$3 in costs related to disaster response and recovery.

Thank you for your participation in this important project.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin", written in a cursive style.

Lt. Kevin Williams, Director of Emergency Management

enc. Executive summary



# Walworth County Natural Hazards Mitigation Plan: 2009-2013

# R-5

## Executive Summary – Final Draft

### 1. GENERAL OVERVIEW

In an effort to curb rising costs associated with natural disasters, the Federal government adopted the Disaster Mitigation Act of 2000 (DMA 2000). It amended the Robert T. Stafford Disaster Relief and Emergency Act, which is the primary law at the Federal level dealing with disaster planning, mitigation, response, and recovery.

DMA 2000 reinforced the importance of hazard mitigation planning to proactively devise strategies intended to avoid and reduce the negative effects of natural disasters. If a community wants to apply for grant funding from the Pre-Disaster Mitigation (PDM) Program or the Hazard Mitigation Grant Program (HMGP), it must have an approved hazard mitigation plan. If a disaster strikes a community that does not have an approved plan, it can only receive funding through HMGP if it agrees to prepare a plan within one year.

Walworth County and participating municipalities have prepared this plan to meet this new requirement, and in so doing, help its citizens mitigate the effects of natural disasters.

Once adopted, the plan must be updated annually with a major revision every five years. Although a plan must meet minimum requirements, the plan is an expression of local needs and priorities.

### 2. PLAN CONTENTS

The plan consists of 7 chapters and a number of appendices. The first chapter presents an overview of the plan. Chapter 2 provides a profile of the county. Chapter 3 describes the various special needs populations and groups in the County that could be disproportionately impacted by natural hazards. In Chapter 4, the critical facilities are identified and categorized. Natural hazards that could impact Walworth County are identified and evaluated in Chapter 5. Goals, objectives, policies, and projects are included in Chapter 6 and a map series is included in Chapter 7.

The plan focuses on 11 types of natural hazards:

- ◆ dam failure
- ◆ flooding
- ◆ ice shoves
- ◆ fog
- ◆ tornado and high winds
- ◆ hailstorms
- ◆ thunderstorms
- ◆ winter storms
- ◆ extreme temperature
- ◆ drought
- ◆ wildland fire

As part of the inventory phase, more than 580 critical facilities in the county were identified including:

- ◆ bridges
- ◆ dams
- ◆ public-use airports
- ◆ telecommunication towers
- ◆ telephone facilities
- ◆ electric facilities
- ◆ natural gas facilities
- ◆ petroleum pipeline facilities
- ◆ public water facilities
- ◆ wastewater facilities
- ◆ fire and police services
- ◆ National Guard facilities
- ◆ government facilities
- ◆ schools (public and private)
- ◆ special care facilities-residential
- ◆ special care facilities-nonresidential
- ◆ health care facilities
- ◆ vulnerable housing, such as manufactured/mobile home parks and campgrounds

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### 3. KEY FINDINGS

- ◆ The villages of Genoa City and Williams Bay did not participate in this planning effort because they have elected to not participate in the National Flood Insurance program (NFIP). The village of Walworth did participate in the planning effort and will adopt the plan once it becomes part of the NFIP.
- ◆ There are a number of groups that are disproportionately affected by natural disasters, including the elderly, people with disabilities, homeless individuals, people living in manufactured and mobile homes, people in campgrounds, and populations with language barriers.
- ◆ Of all the natural hazards, flooding typically causes the most damage. In 2008, there were 345 buildings within the 100-year floodplain. It is estimated that an area-wide 100-year flood would result in damage of more than \$1.36 million.
- ◆ Even though there were 345 buildings within the 100-year floodplain, only 63 properties have flood insurance through the National Flood Insurance program.
- ◆ None of the critical facilities, except for wastewater treatment plants and bridges, are located within the 100-year floodplain.
- ◆ Federal disaster declarations are issued in less than 50 percent of the flooding incidents.
- ◆ It is estimated that on average, a typical tornado could cause about \$375,000 in damage to buildings and other structures.
- ◆ A range of strategies are needed to mitigate against natural hazards, including:
  - ◆ prevention
  - ◆ property protection
  - ◆ public education and awareness
  - ◆ natural resource protection
  - ◆ emergency services
  - ◆ structural projects
- ◆ As of yet, Walworth County has not applied for federal funding for mitigation projects.

### 4. GOALS, OBJECTIVES, POLICIES, AND ACTIVITIES

The most important part of the plan is Chapter 6, which presents a unified plan of action to mitigate the effects of natural hazards on property, people, and assets. It lists goals, objectives, and policies that should guide decision-makers and other officials. Goals are intended to describe an end state, usually in general terms. In contrast, objectives describe an end state in measurable and specific terms. Policies give clear direction on what will be done to help achieve a goal and objective.

Following the listing of goals, objectives, and policies, a chart lists specific action items along with estimated implementation costs. Responsible entities are listed for each so that implementation is well defined.

The activity charts are a work in progress. As items are completed they should be deleted and as new opportunities or issues arise items will be added. Further, depending on available resources, including funding and staff time, priorities may change.

Activities are prioritized as low, medium, or high. Cost estimates are provided to help formulate funding priorities. When a project is to be undertaken, a more detailed budget should be prepared to assess a project's cost. At that time a benefit cost analysis should be completed to show how the benefits of the project compare to anticipated costs. Federal funding for mitigation activities can only be obtained when benefits clearly outweigh the costs.

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**Goal 1. Public Education**

Provide the public with the education they need to adequately prepare for and respond to natural hazards including dam failure, flooding, ice shoves, dense fog, tornadoes, hailstorms, thunderstorms, winter storms, extreme temperature, drought, and wildland fire.

**Objectives**

1. Strengthen emergency service preparedness and response by enhancing public education throughout the county.
2. Increase the number of households that have prepared a family emergency plan.
3. Increase the number of public outreach materials in Spanish.

**Policies**

1. Work with non-governmental organizations such as youth, service, professional, religious organizations to promote mitigation education and awareness.
2. Look for multiple and varied opportunities to disseminate educational information to county residents.

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Develop and implement education programs aimed at mitigating natural hazards and reducing the risk to citizens, public agencies, private property owners, businesses, and schools.	\$5,000	Medium	X	X	Walworth County Emergency Management, American Red Cross, local jurisdictions [1]
2. Create displays for use at public events such as the county fair, wellness fairs	Staff time and supplies	Medium	X		Walworth County Emergency Management, local jurisdictions, Walworth County Department of Health & Human Services
3. Work with the representatives of the public and private schools within the county to promote hazard mitigation awareness	Staff time	Medium	X	X	Walworth County Emergency Management, American Red Cross, Walworth County Department of Health & Human Services
4. Identify, improve, and sustain collaborative programs focusing on the real estate and insurance industries, public and private sector organizations, and individuals to avoid activity that increases risk to natural hazards.	Staff time	Medium	X		Walworth County Emergency Management, American Red Cross, local jurisdictions, Walworth County Department of Land Use & Resource Management
5. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X		Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division
6. Provide more hazard-related information in Spanish.	Staff time	Low	X		Walworth County Emergency Management, Walworth County Department of Health & Human Services, Workforce Development

Notes:  
 1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darien, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth

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**Goal 2. Flooding**

Protect the public health, safety, and welfare of county residents and public and private property during flood events.

**Objectives**

1. Minimize the impact of flooding on potentially affected structures.
2. Decrease the number of structures currently located in the 100-year floodplain that are not properly flood-proofed.
3. Minimize the amount of impervious surface in new development projects to allow more infiltration of storm water into the ground.
4. Increase public awareness of flooding.
5. Improve communication between the county and local units of government when floods occur or are likely to occur.

**Policies**

1. Continue to enforce floodplain regulations to ensure that future development in the 100-year floodplain meets established standards.
2. Support the identification and conservation of land with high flood mitigation value (e.g., wetlands, upland storage, and infiltration areas).
3. Support land acquisition and other management strategies to preserve open space for flood mitigation purposes.
4. Ensure that governmental officials and employees, county residents, and real estate agents are aware of floodplain regulations.
5. Ensure that people owning property in the 100-year floodplain, and their agents, notify buyers when selling their property.
6. Adopt standards to control the proportion of a site that can be covered with impervious surfaces.
7. Locate public infrastructure outside of the 100-year floodplain. When infrastructure has been located in the 100-year floodplain, it should be flood proofed or otherwise protected from flood water.
8. Design and properly size all new stream crossings to not create a significant upstream back-water effect.
9. Continue to enforce storm water management regulations.
10. Update flood insurance rate maps (FIRMs) when it can be shown that they are substantially inaccurate.
11. Ensure that all large dams in the county have emergency action plans and that they are up to date.
12. Undertake such activities as may be required to remain compliant with the requirements of the National Flood Insurance Program.

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Identify and analyze feasible mitigation options for those properties which may be designated as a repetitive flood property.	Staff time	Low	X	X	Walworth County Emergency Management, local jurisdictions [1]
2. Apply for funding through the federal Hazard Mitigation Grant program, Flood Mitigation Assistance Program, and the Pre-Disaster Mitigation Program as well as any other resources that may be available to help flood proof repetitive loss sites or remove them through acquisition followed by demolition or relocation.	Staff time	Low	X	X	Walworth County Emergency Management, local jurisdictions as appropriate [1]
3. Design and budget for stormwater management facilities consistent with adopted stormwater management plans that have been or will be prepared / amended.	Staff time	Medium	X		Walworth County Emergency Management, local jurisdictions as appropriate [1]
4. Develop and maintain a digital inventory of bridges/culverts on a county or state road.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Public Works Department, Walworth County Information Systems Department, Land Information Division
5. Identify those culverts and bridges that are undersized or are otherwise unable to handle expected flood flows.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Public Works Department, local jurisdictions as appropriate [1]

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Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
6. Develop and maintain a geographic database for public roadways that are susceptible to flooding.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Public Works Department, Walworth County Information Systems Department, Land Information Division, local jurisdictions as appropriate [1]
7. Prepare a strategy to prioritize road improvements for public roadways that are susceptible to flooding.	Staff time	Medium	X		Walworth County Public Works Department, local jurisdictions as appropriate [1]
8. Identify undeveloped areas of the county, if any, that have flood mitigation value and develop appropriate strategies to protect them.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Department of Land Use & Resource Management, local jurisdictions as appropriate [1]
9. Establish a framework to compile and coordinate surface water management plans and data throughout the county.	Staff time	Medium	X		Walworth County Emergency Management, local jurisdictions as appropriate [1], Wisconsin Department of Natural Resources
10. Distribute National Flood Insurance Program information.	Staff time	Medium	X	X	Walworth County Emergency Management, Walworth County Department of Land Use & Resource Management, local jurisdictions [1]
11. Explore options for improving the ability of local units of government to report flooding, receive information, and request assistance as may be needed.	Staff time	Medium	X		Walworth County Emergency Management, local jurisdictions [1]
12. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X	X	Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division, local jurisdictions [1]
13. Evaluate the support for and the feasibility of becoming part of the Community Rating System (CRS) to lower flood insurance premiums for property owners.	Staff time	High	X		Walworth County Emergency Management, participating cities and villages in the National Flood Insurance Program
14. Work with the DNR to ensure that an emergency action plan is prepared for large dams and that they are periodically updated.	Staff time	Medium	X		Walworth County Emergency Management
15. Develop a prioritized list of areas of the county meriting detailed flood studies.	Staff time	Low	X		Walworth County Emergency Management
16. Ensure that privately-owned large dams are inspected consistent with state law.	Staff time	Medium	X		Walworth County Emergency Management, local jurisdictions as appropriate [1]
17. Ensure that publicly-owned large dams are inspected consistent with state law.	Staff time	Medium	X		Local jurisdictions as appropriate [1], Wisconsin Department of Natural Resources
18. Revise existing floodplain regulations to ensure they comply with the most recent (2008) model floodplain regulations developed by the Wisconsin Department of Natural Resources.	Staff time	High	X		Walworth County Department of Land Use & Resource Management, local jurisdictions as appropriate [1]
19. Undertake measures to address flooding within the Oak Knoll subdivision in the Village of Walworth.	Unknown	High	X		Village of Walworth
20. Repair the Beulah Dam (County Highway J)	Unknown	Medium	X		Walworth County Emergency Management, local jurisdictions [1]
21. Repair the Whitewater Lake Dam	Unknown	High	X		Walworth County Emergency Management, local jurisdictions [1]

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
22. Conduct a study to determine feasible and cost effective solutions to minimize flooding in those lake basins with a natural outlet such as Whitewater Lake and Turtle Lake and those without a natural outlet such as Lake Lorraine.	Unknown	Medium	X		Walworth County Emergency Management, effected towns and local jurisdictions [1]
23. Identify restrictions of water flow from Turtle Lake, Turtle Valley Wildlife Area, and Turtle Creek. Identify and analyze mitigation options for those properties and roadways affected.	Unknown	High	X		Walworth County Emergency Management, Towns of Sugar Creek and Richmond and other effected towns and local jurisdictions [1]
24. So as to continue in compliance with state and federal requirements, revise locally adopted floodplain regulations to comply with the model regulations as prepared by the Wisconsin Department of Natural Resources.	Staff time	Medium	X		Local jurisdictions [1]
25. Address the reoccurring flooding of Chilson Road and prevent flood water from entering the sewer facility on Chilson Road. Remove trees from area by road and replace with geotextile material and rock. Also, put in a grassed waterway to help with the water flow.	\$9,000 with potential for other funding	High	X		Town of Sharon; Walworth County Conservancy helped with the project design and will oversee the project
26. Conduct a study to determine feasible and cost effective solutions to minimize flooding in the Inlet Oaks subdivision and implement a long-term solution.	Unknown	High	X		Town of Delavan; Delavan Lake Sanitary District
27. Conduct a study to determine why there is flooding on the north side of Lake Wandewega and implement a long-term solution.	Unknown	High	X		Town of Sugar Creek
28. Address the flooding along Potter Road, Hodges Road (near bridge area), and Bray Road (by the cross culvert near Plank Road and W3873 driveway)	Unknown	High	X		Town of La Fayette
29. Mitigate flood water at Nipersink through culvert placement and ditch improvements.	\$35,000	High	X		Town of Bloomfield

## Notes:

1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darien, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth.

87h

**Goal 3. Tornadoes**

Lessen the effects of a tornado to the extent feasible and speed recovery following an event.

**Objectives**

1. Increase public education and awareness of the potential severity of tornadoes.
2. Minimize the amount of time that businesses damaged by a tornado are not operational.
3. Minimize the amount of time it takes to rebuild or restore dwellings damaged by a tornado.
4. Prevent injuries and death from tornadoes.

**Policies**

1. Bury overhead power and utility lines where feasible as a way to reduce power outages during all types of storm events.
2. Require that mobile homes and manufactured housing are securely anchored in place.
3. Ensure that adequate tornado shelters are available to county residents especially those living in mobile home parks.
4. Include redevelopment objectives in smart growth comprehensive plans to support post-disaster development activities.
5. Continue to support the efforts of severe weather spotters.
6. Keep the current siren system functioning and in good repair.
7. Encourage residents to obtain NOAA weather radios especially in those areas of the county that are not covered by a siren.
8. Encourage home builders and others to incorporate wind-resistant features into new home construction (e.g., anchor straps).

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Periodically assess whether there are enough shelters to house displaced persons.	Staff time	Medium	X	X	Walworth County Emergency Management, American Red Cross
2. Apply for mitigation funding to purchase NOAA weather radios for county residents.	Staff time	Low	X		Walworth County Emergency Management, local jurisdictions [1]
3. Study the feasibility of and support for adopting a local regulation which would require new mobile home parks and future expansions of existing parks to provide for a tornado shelter.	Staff time	Medium	X		Walworth County Emergency Management
4. Develop and implement strategies for debris management.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Public Works Department, American Red Cross
5. Amend land development regulations to require a storm shelter in mobile home parks when the number of mobile homes exceeds a threshold as established by the jurisdiction.	Staff time	Medium	X		Walworth County Land Use & Management Department, Walworth County Emergency Management, local jurisdictions [1]
6. Install storm shelters near or in existing mobile home parks and high occupancy campgrounds.	Staff time	Medium	X		Mobile home park operators and campground operations with Walworth County Emergency Management
7. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X		Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division
8. Identify opportunities for developing a joint dispatch center.	Staff time	High	X		Walworth County Emergency Management and other county departments

**Notes:**

1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darien, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth.

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**Goal 4. Extreme Temperature**

Protect the health of Walworth County residents from extreme temperature.

**Objectives**

1. Prevent deaths and injuries from extreme temperature.

**Policies**

1. Encourage volunteers to look after vulnerable individuals, especially the elderly, during times of extreme temperature.
2. Open county and other public facilities with air conditioning as appropriate for public access during periods of extreme heat.
3. Ensure that county residents are aware that there are different forms of assistance to help qualified individuals to help pay their winter heating costs.

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Develop a directory of public buildings that would be open to the public during extended heat waves.	Staff time	Medium	X	X	Walworth County Emergency Management, Walworth County Department of Health & Human Services, local jurisdictions [1]
2. Call a meeting of public and nonprofit organizations that may be able to mobilize a volunteer corps of individuals willing to assist vulnerable people during periods of extreme temperature.	Staff time	High	X		Walworth County Emergency Management, Walworth County Department of Health & Human Services, local jurisdictions [1]
3. Investigate the possibility of establishing a database of individuals who are vulnerable to extreme temperature and who have voluntarily placed their name on the call list	Staff time	Medium	X		Walworth County Emergency Management; Walworth County Department of Health & Human Services, American Red Cross
4. Publicise available programs that help low-income residents pay for their utility expenses.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Department of Health & Human Services, local jurisdictions [1]
5. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X		Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division
6. Amend the county's emergency operations plan to address extreme temperatures.	Staff time	Medium	X		Walworth County Emergency Management

**Notes:**

1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darfen, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth.

87j

**Goal 5. Severe Thunderstorm Winds & Hail and Non-thunderstorm High Winds**

Protect and prepare Walworth County residents from the dangers of extreme weather.

**Objectives**

1. Increase public education and awareness of the potential dangers of thunderstorms, snow storms, hail, and windstorms.

**Policies**

1. Bury overhead power and utility lines where feasible as a way to reduce power outages during all types of storm events.
2. Provide citizens with early storm warnings.
3. Encourage the use of surge protectors on critical electronic equipment in governmental and critical facilities.
4. Work with utility companies to assess and to improve, when necessary, electric service reliability.
5. Work with public and private utility companies to ensure that trees are properly trimmed near utility lines.

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Continue to update and/or monitor the County's public early warning system and network.	Staff time	Medium	X	X	Walworth County Emergency Management, local jurisdictions
2. Review local building codes to determine if revisions are needed to improve the structure's ability to withstand greater wind velocities and encourage provision of safe rooms, especially in structures that do not have a basement.	Staff time	Low	X		Walworth County Emergency Management, local jurisdictions
3. Produce and distribute emergency preparedness information related to thunderstorms, snow storms, hailstorms, and windstorm hazards.	Staff time	Medium	X		Walworth County Emergency Management, American Red Cross, local jurisdictions
4. Identify and pursue funding opportunities to develop and implement local and county mitigation activities.	Staff time	Medium	X		Walworth County Emergency Management, American Red Cross, local jurisdictions
5. Install lightning grade surge protection devices for critical electronic components used by government, public service, and public safety facilities, such as warning systems, control systems, communications, and computers.	\$3,000	Medium	X		Walworth County Emergency Management, American Red Cross, local jurisdictions
6. Provide the public with information about proven lightning safety guidelines to reduce the risk of lightning hazards.	Staff time	Medium	X		Walworth County Emergency Management, local jurisdictions
7. Develop and implement strategies for debris management.	Staff time	Medium	X		Walworth County Emergency Management, Walworth County Public Works, local jurisdictions
8. Apply for mitigation funding to purchase NOAA weather radios for county residents.	Staff time	Medium	X		Walworth County Emergency Management
9. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X		Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division

Notes:

1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darien, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth.

87K

**Goal 6. Drought**

Protect the public health, safety, and welfare of county residents during periods of drought.

**Objectives**

1. Decrease water consumption during periods of drought.
2. Minimize the economic impacts of drought on the local economy.

**Policies**

1. Encourage water conservation during periods of drought.
2. Impose watering restrictions during periods of extreme drought.
3. Work with appropriate agencies to conserve water, provide drought prediction, and provide stream and groundwater monitoring.
4. Work with agencies that can assist with and promote soil health, preserve soil moisture and help to minimize the loss of the crops and topsoil in the event of a drought.
5. Continue to monitor groundwater levels to identify the status of groundwater resources and trends.
6. Work with state agencies and other levels of government in developing appropriate regional strategies to address drought conditions.

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Create an ordinance to prioritize or control water use during drought conditions.	Staff time	Medium	X	X	Municipalities with public water systems
2. Develop a set of procedures for water distribution during drought to those in need.	Staff time	Medium	X		Walworth County Emergency Management, local jurisdictions [1]
3. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X		Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division

**Notes:**

1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darien, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth.

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**Goal 7. Wildland Fire**

Protect structures and people in Walworth County from uncontrolled wildfires.

**Objectives**

1. Decrease the number of wildland fires occurring in the county.
2. Decrease the number of acres burned from wildland fires.
3. Increase public education.

**Policies**

1. Support the use of controlled burns as a way of reducing the threat of dangerous wildland fires.
2. Enhance emergency services to increase the efficiency of wildfire response and recovery activities.
3. Keep track of wildfire events in the county to better document the extent and location of these events.

Implementation Actions / Strategies	Cost Estimate (2008)	Priority	Schedule		Responsible Entity
			2009 to 2013	2014 to 2018	
1. Apply for federal and state grants to enhance the capability of local fire departments.	Staff time	Medium	X	X	Walworth County Emergency Management, local fire departments
2. Provide education to county and municipality personnel about federal cost-share and grant programs, fire protection agreements, and other related federal programs so the full array of assistance available to local agencies is understood.	Staff time	Low	X		Walworth County Emergency Management, local jurisdictions [1]
3. Study the feasibility of and support for adopting a local burning permit program at the Town level.	Staff time	Medium	X		Walworth County Emergency Management, local fire departments, local jurisdictions [1]
4. Develop a digital database to keep track of wildfire events in the county.	Staff time	Medium	X		Walworth County Emergency Management, local fire departments
5. Develop and maintain a geographic database for natural hazard events, including location, weather conditions, and resulting damage.	Staff time	High	X		Walworth County Emergency Management, Walworth County Information Systems Department, Land Information Division
6. Investigate the establishment of a uniform way of providing information to the public regarding issuance of burning permits.	Staff time	High	X		Walworth County Sheriff's Department, local fire departments

**Notes:**

1. Local jurisdictions include City of Delavan, City of Elkhorn, City of Lake Geneva, City of Whitewater, Village of Darien, Village of East Troy, Village of Fontana-on-Geneva Lake, Village of Sharon, and Village of Walworth.

87m

RESOLUTION CONCERNING SPRINGBROOK  
APARTMENTS, LLC, DEVELOPMENT

WHEREAS, Springbrook Apartments, LLC, caused a subdivision of land near the intersection of Clark Street and Caine Street in the City of Whitewater, and

WHEREAS, due to changes in the development plan, Springbrook Apartments, LLC, caused a Certified Survey Map to be recorded which replaced the previously recorded subdivision plat, and

WHEREAS, it is necessary for the City of Whitewater to take certain actions in order to cause the real estate title to be consistent with the current Certified Survey Map and Development Plans.

Now, therefore, BE IT RESOLVED that the Common Council of the City of Whitewater hereby authorizes the following;

1. The City Manager and the City Clerk may execute a Quit Claim Deed, and any other documents necessary, to transfer Outlot 1 of Springbrook Subdivision/CSM (a Storm Water Management Area) back to Springbrook Apartments, LLC.

2. The City Manager and the City Clerk may execute documents releasing storm water, public utility, and other easements concerning the Springbrook development in the City of Whitewater.

3. The City Manager and the City Clerk may execute documents establishing storm water and other easements at the Springbrook development in the City of Whitewater.

4. The adding of a metes and bounds legal description and map to the ordinance previously passed by the City Council discontinuing Clark Street south of Caine Street in the City of Whitewater.

5. The City Manager and the City Clerk may sign any other documents, approved by the City Attorney, which are consistent with the City's approval of the Springbrook Certified Survey Map and plan, which replace the previously recorded subdivision plat and plan for Springbrook Apartments, LLC.

Resolution introduced by Councilmember \_\_\_\_\_ . Seconded by Councilmember \_\_\_\_\_ .

AYES:

NOES:

ABSENT:

ADOPTED:

\_\_\_\_\_  
Kevin M. Brunner, City Manager

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

**ORDINANCE CREATING CHAPTER 7.40  
REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION**

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

**SECTION 1.** Chapter 7.40, Regulations Concerning Neighborhood Preservation, is hereby created to read as follows:

**Sections:**

- 7.40.010 Definitions.
- 7.40.020 Notice.
- 7.40.030 Abatement Plan
- 7.40.040 Additional Nuisance Activity
- 7.40.050 Appeal
- 7.40.060 Violations – Penalties – Remedies – Injunctive and other relief.

**7.40.010** **Definitions.** The following terms shall be defined as follows in this chapter:

- A. **Chief.** The Chief of Police or his or her designee.
- B. **Enforcement Action.** Arrest, the issuance of a citation, the issuance of a written warning, the issuance of an order to correct, the imposition of a reinspection fee.
- C. **WWMC.** Whitewater Municipal Code.
- D. **Neighborhood Services Director.** The Neighborhood Services Director or his or her designee.
- E. **Nuisance Activity.** Any of the following activities, behaviors or conduct occurring upon a premises or arising out of the use of a premises (unless the owner or occupant of the property is the victim of the crime or act):

**1. POLICE NUISANCE ACTIVITY**

- a. An act of Harassment, as defined in §947.013, Wis. Stats.
- b. Disorderly Conduct, as defined in §947.01, Wis. Stats.

*Alternative A*

- c. Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
- d. Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
- e. Prostitution, as defined in §944.30, Wis. Stats.
- f. Theft, as defined in §943.20, Wis. Stats.
- g. Receiving Stolen Property, as defined in §943.34, Wis. Stats.
- h. Arson, as defined in §943.02, Wis. Stats.
- i. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
- j. Gambling, as defined in §945.02, Wis. Stats.
- k. Obstructing or resisting an officer, set forth in WWMC 7.02.
- l. Failure to obey a police officer, set forth in WWMC 7.03.
- m. Possession of marijuana, set forth in WWMC 7.26.
- n. Disturbance of the peace, set forth in WWMC 7.36.
- o. Underage alcohol violation, set forth in WWMC 7.63.
- p. Furnishing alcohol to underage persons, set forth in WWMC 7.66.
- q. Fireworks violation, set forth in WWMC 5.08.
- s. Noise violation as set forth in WWMC 19.58.
- t. Another similar activity to that stated above.

**2. CODE NUISANCE ACTIVITY**

- a. Weeds and grass violation, set forth in WWMC 7.22.
- b. Storing junk on property, set forth in WWMC 7.48.
- c. Junked automobiles, set forth in WWMC 5.56.
- d. Filth violation, set forth in WWMC 8.12.

- e. Rubbish violation, set forth in WWMC 8.24.
  - f. Building and construction violations, set forth in WWMC Title 14.
  - g. Zoning violations under Chapter 19 provided they are in a residential setting.
  - h. Any other similar activity to that stated above.
- F. **Owner.** The owner of the premises and his or her agents.
- G. **Premises.** An individual dwelling unit used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas thereof.

**7.40.020      Notice.**

A. Whenever the Chief determines that six (6) or more Police Nuisance Activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period the Chief, or his designee, may notify the premises owner and tenant in writing of the violations. In reaching this determination, the Chief shall not include nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Chief may initiate and implement the procedure and enforcement for Police Nuisance Activities under this Section.

B. Whenever the Neighborhood Services Director determines that six (6) or more Code Nuisance Activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period, the Neighborhood Services Director, or his designee, may notify the premises owner and tenant in writing. In reaching this determination, the Neighborhood Services Director shall not include nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Neighborhood Services Director may initiate and implement the procedure and enforcement for Code Nuisance Activities under this Section.

C. The Chief and Neighborhood Services Director may jointly agree to initiate, implement and enforce this Chapter in the event that an aggregate of six (6) or more combined Police Nuisance Activities and Code Nuisance Activities, in any combination thereof, resulting in enforcement action have occurred at a premises on separate days during a 12 month period.

D. The notice shall contain the street address including unit number if applicable or legal description sufficient to identify the premises, a description of the nuisance activities and enforcement actions that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

- E. The Chief's written notice shall be delivered to the owner of the premises by one

of the following methods: personal service, certified mail, first class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, as the Chief or Neighborhood Services Director, as applicable, may determine appropriate under the particular facts and circumstances.

**7.40.030 Abatement plan.**

Any owner (or the owner's representative) receiving such notice shall personally meet with the City Official (Chief or Neighborhood Services Director) who issued the notice, or with his or her City designee, within seven (7) days of receipt of such notice. The Chief or Neighborhood Services Director, as applicable, and owner shall review the problems occurring upon the premises and/or property. Within ten (10) days of this meeting, the owner shall submit to the Chief or Neighborhood Services Director, as applicable, or his or her designee, a detailed written abatement plan designed to forthwith and effectively end all the nuisance activity upon the premises. The plan shall also specify a name, address, and telephone number of a person living within sixty (60) miles of the premises who can be contacted in the event of further police, fire, or inspection activities and/or contact.

**7.40.040 Additional nuisance activity.**

Whenever the Chief or Neighborhood Services Director, as applicable, determines that:

1. Additional nuisance activity and/or enforcement action has/have occurred upon a premises for which written notice has been issued under this Chapter; and
2. This additional nuisance activity and/or enforcement action has/have occurred more than seventeen (17) days after written notice was served; and
3. Reasonable effort has not been made by the owner of the premises to abate the nuisance activity;

Then, for the next 24 months, the Chief or Neighborhood Services Director, as applicable may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such police and related City responses and enforcement including, but not limited to, actual burdened labor, overtime, materials, vehicle use, and related administrative time and efforts for this and any subsequent nuisance activities and enforcement actions upon, for and/or pertaining to the premises. The Chief or Neighborhood Services Director, as applicable shall then cause all such costs, fees and expenses to be charged against the owner of the premises and the premises itself, and if unpaid in 30 days, charged, assessed, levied and collected by the City as a special charge against the premises/property.

**7.40.050 Appeal.**

**A. Appeal by Affected Property Owner.** An affected owner of the premises may appeal the Police Chief's or Neighborhood Services Director's, as applicable, determination and invoiced special charges arising from and imposed for the police and related

costs, fees and expenses set forth in this Ordinance in the manner set forth in this subsection.

**B.** The appeal shall be in writing, filed with the City Clerk, stating with specificity the grounds for the appeal and the relief requested. The appeal must be filed within thirty (30) days of the invoice from the City Clerk.

**C.** The appeal shall be considered only if filed within 30 days of the date of the invoice from the Clerk and prior to the time that any unpaid special charges imposed against the premises/property under this chapter are turned over by the Treasurer to be placed on the tax roll.

**D.** Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal nor shall any other provision of state law or city ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.

**E.** Upon receipt of the written appeal, the Clerk shall set the matter for a hearing for a meeting of the Common Council not less than thirty (30) days nor more than sixty (60) days after the filing of the written appeal.

**F.** The Clerk shall provide written notice to the appellant and to the Chief of Police or Neighborhood Services Director of such hearing date, time and place.

**G.** The parties may agree to continuances and stipulations as to procedure and substance.

**H.** The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven (7) years by the City Clerk. A party may have a court reporter record the hearing but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.

**I.** The appellant and the Chief of Police or Neighborhood Services Director may each present witnesses who testify upon oath after being duly sworn in by the City Clerk, the Deputy City Clerk, or any other person authorized by law to administer oaths.

**J.** After the hearing, the Common Council in open session shall deliberate and then make a determination by recorded motion, second and vote. A majority of Council Members voting shall decide the matter.

**K.** The City Clerk and Treasurer shall adjust all invoices, tax and related City records in accord with the Council's determination.

**L.** The procedures initiated by notice under Section 7.40.020 shall be stayed until the Common Council rules on any timely appeal filed under this section.

**7.40.060 Violations – Penalties – Remedies – Injunctive and other relief.**

In addition to the special charges authorized and described above, the following penalties

and remedies are cumulative and not exclusive; may be jointly and severally sought and/or employed by the City, and may be ordered and/or imposed, as applicable, by the courts:

**A. First Offense.** Any individual, corporation or party who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit and pay to the City not less than \$100 nor more than \$1,000, together with the costs of prosecution. It shall be considered a violation of this chapter by the property owner if additional nuisance activity under section 7.40.040 takes place at a premises within a period of two years after a notice under 7.40.020 is given concerning a premises.

**B. Subsequent Offenses.** Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within twenty-four (24) months after committing a previous violation shall forfeit and pay to the City not less than \$200 nor more than \$2,000, together with the costs of prosecution.

**C.** Each and every day that a violation occurs, continues, and/or remains present constitutes a separate offense.

**D.** The City, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, abatement, and such other legal and/or equitable relief, remedies, judgments, and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time, deem necessary, appropriate and/or desirable to effectuate the intent of this chapter and the public good, peace, order, welfare, and/or safety.

**E.** In addition to the above penalties, relief and remedies, the Common Council may refuse to issue or not renew any license or permit to the owner of the premises and/or the premises, after conducting a hearing thereon.

**F.** It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premises property as expeditiously as possible, unless otherwise directed by the City or the court.

**G.** This chapter is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under City ordinances, state statutes, state administrative codes, and common law, including, but not limited to, forfeiture of the property to the City under the applicable state statutes.

**SECTION 3.** This ordinance shall take effect upon passage and publication as provided by law.

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

AYES:  
NOES:  
ABSENT:  
ADOPTED:

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Kevin Brunner, City Manager

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Michele R. Smith, City Clerk

**ORDINANCE CREATING CHAPTER 7.41  
REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION  
(PROPERTY CONDITION NUISANCE RELATED)**

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

**SECTION 1.** Chapter 7.41, Regulations Concerning Neighborhood Preservation (Property Condition Nuisance Related), is hereby created to read as follows:

**Sections:**

- 7.41.010 Definitions.
- 7.41.020 Notice.
- 7.41.030 Abatement Plan
- 7.41.040 Additional Property Condition Nuisance Activity
- 7.41.050 Appeal
- 7.41.060 Violations – Penalties – Remedies – Injunctive and other relief.

**7.41.010**      **Definitions.** The following terms shall be defined as follows in this chapter:

- A.    **Enforcement Action.** Arrest, the issuance of a citation, the issuance of a written warning, the issuance of an order to correct.
- B.    **WWMC.** Whitewater Municipal Code.
- C.    **Property Condition Nuisance Related Activity.** Any of the following activities, behaviors or conduct occurring upon a premises or arising out of the use of a premises (unless the owner or occupant of the property is the victim of the crime or act by a non-occupant):

**1.      PROPERTY CONDITION NUISANCE RELATED ACTIVITY**

- a. Weeds and grass violation, set forth in WWMC 7.22.
- b. Storing junk on property, set forth in WWMC 7.48.
- c. Junked automobiles, set forth in WWMC 5.56.
- d. Filth violation, set forth in WWMC 8.12.

- e. Rubbish violation, set forth in WWMC 8.24.
  - f. Building and construction violations, set forth in WWMC Title 14.
  - g. Zoning violations under Chapter 19
  - h. Any other similar activity to that stated above.
- F. **Owner.** The owner of the premises and his or her agents.
- G. **Premises.** An individual dwelling unit used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas thereof.

**7.41.020      Notice.**

A. Whenever the Neighborhood Services Director determines that four (4) or more Property Condition Nuisance Related Activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period, the Neighborhood Services Director, or his designee, may notify the premises owner and tenant in writing. In reaching this determination, the Neighborhood Services Director shall not include nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Neighborhood Services Director may initiate and implement the procedure and enforcement for Property Condition Nuisance Related Activities under this Section.

B. The notice shall contain the street address including unit number if applicable or legal description sufficient to identify the premises, a description of the property condition nuisance related activities and enforcement actions that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

C. The Neighborhood Services Director's written notice shall be delivered to the owner of the premises by one of the following methods: personal service, certified mail, first class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, as the Neighborhood Services Director, as applicable, may determine appropriate under the particular facts and circumstances.

**7.41.030      Abatement plan.**

Any owner (or the owner's representative) receiving such notice shall personally meet with the Neighborhood Services Director, or with his or her City designee, within seven (7) days of receipt of such notice. The Neighborhood Services Director and owner shall review the problems occurring upon the premises and/or property. Within ten (10) days of this meeting, the owner shall submit to the Neighborhood Services Director, or his or her designee, a detailed written abatement plan designed to forthwith and effectively end all the property condition nuisance related activity upon the premises. The plan shall also specify a name, address, and

telephone number of a person living within sixty (60) miles of the premises who can be contacted in the event of further inspection activities and/or contact.

**7.41.040 Additional property condition nuisance related activity.**

Whenever the Neighborhood Services Director determines that:

1. Additional property condition nuisance related activity and/or enforcement action has/have occurred upon a premises for which written notice has been issued under this Chapter; and
2. This additional property condition nuisance related activity and/or enforcement action has/have occurred more than seventeen (17) days after written notice was served; and
3. Reasonable effort has not been made by the owner of the premises to abate the property condition nuisance related activity;

Then, for the next 24 months, the Neighborhood Services Director may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such City responses and enforcement including, but not limited to, actual burdened labor, overtime, materials, vehicle use, and related administrative time and efforts for this and any subsequent property condition nuisance related activities and enforcement actions upon, for and/or pertaining to the premises. The Neighborhood Services Director shall then cause all such costs, fees and expenses to be charged against the owner of the premises and the premises itself, and if unpaid in 30 days, charged, assessed, levied and collected by the City as a special charge against the premises/property.

**7.41.050 Appeal.**

**A. Appeal by Affected Property Owner.** An affected owner of the premises may appeal the Neighborhood Services Director's determination and invoiced special charges arising from and imposed for the police and related costs, fees and expenses set forth in this Ordinance in the manner set forth in this subsection.

**B.** The appeal shall be in writing, filed with the City Clerk, stating with specificity the grounds for the appeal and the relief requested. The appeal must be filed within thirty (30) days of the invoice from the City Clerk.

**C.** The appeal shall be considered only if filed within 30 days of the date of the invoice from the Clerk and prior to the time that any unpaid special charges imposed against the premises/property under this chapter are turned over by the Treasurer to be placed on the tax roll.

**D.** Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal nor shall any other provision of state law or city ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.

E. Upon receipt of the written appeal, the Clerk shall set the matter for a hearing for a meeting of the Common Council not less than thirty (30) days nor more than sixty (60) days after the filing of the written appeal.

F. The Clerk shall provide written notice to the appellant and to the Neighborhood Services Director of such hearing date, time and place.

G. The parties may agree to continuances and stipulations as to procedure and substance.

H. The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven (7) years by the City Clerk. A party may have a court reporter record the hearing but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.

I. The appellant and the Neighborhood Services Director may each present witnesses who testify upon oath after being duly sworn in by the City Clerk, the Deputy City Clerk, or any other person authorized by law to administer oaths.

J. After the hearing, the Common Council in open session shall deliberate and then make a determination by recorded motion, second and vote. A majority of Council Members voting shall decide the matter.

K. The City Clerk and Treasurer shall adjust all invoices, tax and related City records in accord with the Council's determination.

L. The procedures initiated by notice under Section 7.41.020 shall be stayed until the Common Council rules on any timely appeal filed under this section.

## **7.41.060 Violations – Penalties – Remedies – Injunctive and other relief.**

In addition to the special charges authorized and described above, the following penalties and remedies are cumulative and not exclusive; may be jointly and severally sought and/or employed by the City, and may be ordered and/or imposed, as applicable, by the courts:

**A. First Offense.** Any individual, corporation or party who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit and pay to the City not less than \$100 nor more than \$1,000, together with the costs of prosecution. It shall be considered a violation of this chapter by the property owner if additional property condition nuisance related activity under section 7.41.040 takes place at a premises within a period of two years after a notice under 7.41.020 is given concerning a premises.

**B. Subsequent Offenses.** Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within twenty-four (24) months after committing a previous violation shall forfeit and pay to the City not less than \$200 nor more than \$2,000, together with the costs of prosecution.

C. Each and every day that a violation occurs, continues, and/or remains present constitutes a separate offense.

D. The City, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, abatement, and such other legal and/or equitable relief, remedies, judgments, and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time, deem necessary, appropriate and/or desirable to effectuate the intent of this chapter and the public good, peace, order, welfare, and/or safety.

E. In addition to the above penalties, relief and remedies, the Common Council may refuse to issue or not renew any license or permit to the owner of the premises and/or the premises, after conducting a hearing thereon.

F. It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premises property as expeditiously as possible, unless otherwise directed by the City or the court.

G. This chapter is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under City ordinances, state statutes, state administrative codes, and common law, including, but not limited to, forfeiture of the property to the City under the applicable state statutes.

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

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

AYES:  
NOES:  
ABSENT:  
ADOPTED:

\_\_\_\_\_  
Kevin Brunner, City Manager

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

**ORDINANCE CREATING CHAPTER 7.42  
REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION  
(POLICE RELATED NUISANCE ACTIVITIES)**

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

**SECTION 1.** Chapter 7.42, Regulations Concerning Neighborhood Preservation (Police Related Nuisance Violations), is hereby created to read as follows:

**Sections:**

- 7.42.010 Definitions.
- 7.42.020 Notice.
- 7.42.030 Abatement Plan
- 7.42.040 Additional Police Related Nuisance Activity
- 7.42.050 Appeal
- 7.42.060 Violations – Penalties – Remedies – Injunctive and other relief.

**7.42.010**     **Definitions.**     The following terms shall be defined as follows in this chapter:

- A.     **Chief.**     The Chief of Police or his or her designee.
- B.     **Enforcement Action.**     Arrest, the issuance of a citation, the issuance of a written warning, the issuance of an order to correct.
- C.     **WWMC.**     Whitewater Municipal Code.
- D.     **Police Related Nuisance Activity.**     Any of the following activities, behaviors or conduct occurring upon a premises or arising out of the use of a premises (unless the owner or occupant of the property is the victim of the crime or act by a non-occupant):

**1.     POLICE RELATED NUISANCE ACTIVITY**

- a.     An act of Harassment, as defined in §947.013, Wis. Stats.
- b.     Disorderly Conduct, as defined in §947.01, Wis. Stats.

- c. Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
  - d. Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
  - e. Prostitution, as defined in §944.30, Wis. Stats.
  - f. Theft, as defined in §943.20, Wis. Stats.
  - g. Receiving Stolen Property, as defined in §943.34, Wis. Stats.
  - h. Arson, as defined in §943.02, Wis. Stats.
  - i. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
  - j. Gambling, as defined in §945.02, Wis. Stats.
  - k. Obstructing or resisting an officer, set forth in WWMC 7.02.
  - l. Failure to obey a police officer, set forth in WWMC 7.03.
  - m. Possession of marijuana, set forth in WWMC 7.26.
  - n. Disturbance of the peace, set forth in WWMC 7.36.
  - o. Underage alcohol violation, set forth in WWMC 7.63.
  - p. Furnishing alcohol to underage persons, set forth in WWMC 7.66.
  - q. Fireworks violation, set forth in WWMC 5.08.
  - s. Noise violation as set forth in WWMC 19.58.
  - t. Another similar activity to that stated above.
- E. **Owner.** The owner of the premises and his or her agents.
- F. **Premises.** An individual dwelling unit used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas thereof.

**7.42.020**      **Notice.**

A. Whenever the Chief determines that four (4) or more Police Related Nuisance Activities resulting in enforcement action have occurred at a premises on separate days during a

12-month period the Chief, or his designee, may notify the premises owner and tenant in writing of the violations. In reaching this determination, the Chief shall not include police related nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Chief may initiate and implement the procedure and enforcement for Police Related Nuisance Activities under this Section.

B. The notice shall contain the street address including unit number if applicable or legal description sufficient to identify the premises, a description of the nuisance activities and enforcement actions that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

C. The Chief's written notice shall be delivered to the owner of the premises by one of the following methods: personal service, certified mail, first class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, as the Chief may determine appropriate under the particular facts and circumstances.

#### **7.42.030 Abatement plan.**

Any owner (or the owner's representative) receiving such notice shall personally meet with the Police Chief, or with his or her City designee, within seven (7) days of receipt of such notice. The Chief and owner shall review the problems occurring upon the premises and/or property. Within ten (10) days of this meeting, the owner shall submit to the Chief or his or her designee, a detailed written abatement plan designed to forthwith and effectively end all the police related nuisance activity upon the premises. The plan shall also specify a name, address, and telephone number of a person living within sixty (60) miles of the premises who can be contacted in the event of further police, fire, or inspection activities and/or contact.

#### **7.42.040 Additional police related nuisance activity.**

Whenever the Chief determines that:

1. Additional police related nuisance activity and/or enforcement action has/have occurred upon a premises for which written notice has been issued under this Chapter; and
2. This additional police related nuisance activity and/or enforcement action has/have occurred more than seventeen (17) days after written notice was served; and
3. Reasonable effort has not been made by the owner of the premises to abate the police related nuisance activity;

Then, for the next 24 months, the Chief may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such police and related City responses and enforcement including, but not limited to, actual burdened labor, overtime, materials, vehicle use, and related administrative time and efforts for this and any subsequent nuisance activities and enforcement actions upon, for and/or pertaining to the premises. The Chief shall then cause all such costs,

fees and expenses to be charged against the owner of the premises and the premises itself, and if unpaid in 30 days, charged, assessed, levied and collected by the City as a special charge against the premises/property.

**7.42.050 Appeal.**

**A. Appeal by Affected Property Owner.** An affected owner of the premises may appeal the Police Chief's determination and invoiced special charges arising from and imposed for the police and related costs, fees and expenses set forth in this Ordinance in the manner set forth in this subsection.

**B.** The appeal shall be in writing, filed with the City Clerk, stating with specificity the grounds for the appeal and the relief requested. The appeal must be filed within thirty (30) days of the invoice from the City Clerk.

**C.** The appeal shall be considered only if filed within 30 days of the date of the invoice from the Clerk and prior to the time that any unpaid special charges imposed against the premises/property under this chapter are turned over by the Treasurer to be placed on the tax roll.

**D.** Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal nor shall any other provision of state law or city ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.

**E.** Upon receipt of the written appeal, the Clerk shall set the matter for a hearing for a meeting of the Common Council not less than thirty (30) days nor more than sixty (60) days after the filing of the written appeal.

**F.** The Clerk shall provide written notice to the appellant and to the Chief of Police of such hearing date, time and place.

**G.** The parties may agree to continuances and stipulations as to procedure and substance.

**H.** The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven (7) years by the City Clerk. A party may have a court reporter record the hearing but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.

**I.** The appellant and the Chief of Police may each present witnesses who testify upon oath after being duly sworn in by the City Clerk, the Deputy City Clerk, or any other person authorized by law to administer oaths.

**J.** After the hearing, the Common Council in open session shall deliberate and then make a determination by recorded motion, second and vote. A majority of Council Members voting shall decide the matter.

**K.** The City Clerk and Treasurer shall adjust all invoices, tax and related City records in accord with the Council's determination.

**L.** The procedures initiated by notice under Section 7.42.020 shall be stayed until the Common Council rules on any timely appeal filed under this section.

**7.42.060 Violations – Penalties – Remedies – Injunctive and other relief.**

In addition to the special charges authorized and described above, the following penalties and remedies are cumulative and not exclusive; may be jointly and severally sought and/or employed by the City, and may be ordered and/or imposed, as applicable, by the courts:

**A. First Offense.** Any individual, corporation or party who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit and pay to the City not less than \$100 nor more than \$1,000, together with the costs of prosecution. It shall be considered a violation of this chapter by the property owner if additional police related nuisance activity under section 7.42.040 takes place at a premises within a period of two years after a notice under 7.42.020 is given concerning a premises.

**B. Subsequent Offenses.** Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within twenty-four (24) months after committing a previous violation shall forfeit and pay to the City not less than \$200 nor more than \$2,000, together with the costs of prosecution.

**C.** Each and every day that a violation occurs, continues, and/or remains present constitutes a separate offense.

**D.** The City, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, abatement, and such other legal and/or equitable relief, remedies, judgments, and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time, deem necessary, appropriate and/or desirable to effectuate the intent of this chapter and the public good, peace, order, welfare, and/or safety.

**E.** In addition to the above penalties, relief and remedies, the Common Council may refuse to issue or not renew any license or permit to the owner of the premises and/or the premises, after conducting a hearing thereon.

**F.** It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premises property as expeditiously as possible, unless otherwise directed by the City or the court.

**G.** This chapter is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under City ordinances, state statutes, state administrative codes, and common law, including, but not limited to, forfeiture of the property to the City under the applicable state statutes.

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

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

AYES:  
NOES:  
ABSENT:  
ADOPTED:

\_\_\_\_\_  
Kevin Brunner, City Manager

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

April 28, 2009

**ORDINANCE NO. \_\_\_\_\_  
ORDINANCE AMENDING CHAPTER 1.29 OF  
THE WHITEWATER MUNICIPAL CODE**

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

Section 1. Subsection 1.29.020 (c) of Chapter 1.29 of the Whitewater Municipal Code is hereby created to read as follows:

Section 1.29.020(c) Any property owner or lessor receiving a fourth offense re-inspection fee, for the same violation, may have the payment of the fee waived if the party or his or her representative personally meets with the Neighborhood Services Director, or with his or her City designee, within seven (7) days of receipt of the notice of the fee imposition. At the meeting the Neighborhood Services Director and owner shall review the problems occurring at the property. Within ten (10) days of this meeting, the owner shall submit to the Neighborhood Services Director, or his or her designee, a detailed written abatement plan designed to forthwith and effectively correct the offense that caused the imposition of the fee. If the plan meets the Neighborhood Services Director's approval, the fee shall be waived upon successful completion of the plan. The Neighborhood Services Director shall notify the party that receives a fourth offense re-inspection fee of the availability of this abatement process.

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

AYES:

NOES:

ABSENT:

ADOPTED:

\_\_\_\_\_  
Kevin Brunner, City Manager

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

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 11.16.150  
ENTITLED STREET INDEX OF PARKING RESTRICTIONS

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

**Section 1.** Whitewater Municipal Code, Chapter 11.16, Section 11.16.150, entitled Street Index of Parking Restrictions is hereby amended by deleting the following:

The no parking restriction on the east side of Fourth Street from its intersection with West Center Street south to its intersection with West Whitewater Street is hereby deleted.

**Section 2.** Whitewater Municipal Code, Chapter 11.16, Section 11.16.150, entitled Street Index of Parking Restrictions is hereby amended by adding the following:

There shall be no parking on the east side of Fourth Street from its intersection with West Center Street south to its intersection with Forest Street.

There shall be no parking on the west side of Fourth Street from its intersection with Forest Street south to its intersection with West Whitewater Street.

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

AYES: \_\_\_\_\_  
Kevin Brunner, City Manager

NOES: \_\_\_\_\_

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

ADOPTED:

**MEMORANDUM**

**To:** Common Council

**From:** Patrick Singer, Common Council President and Kevin Brunner, City Manager

**Date:** April 27, 2009

**Re:** Recommended appointments to various city boards and commissions

We are pleased to recommend the following citizens to be appointed by the Common Council to vacant positions on city boards and commissions:

Birge Fountain Committee: Rusty Fero  
 Board of Zoning Appeals: Alan Marshall, Scott Coenen, and Greg Meyer (alternate)  
 Cable TV Committee: John Newhouse, Scott Coenen and Jay Craggs  
 Handicapped Discrimination Commission: Kim Krebs, Laura Jacobs and Kevin Martin  
 Community Development Authority: Jeffrey Knight  
 Ethics Committee: Harriet Kaluva and David Stone  
 Landmarks Commission: Kimberly Krebs, Kathleen Lashley and Mariann Scott  
 Library Board: Sharon Knight  
 Parks and Recreation Board: David Stone and Prue Negley  
 Plan and Architectural Review Commission: Karen Coburn, Thomas Miller, David Stone, Kevin Martin (alternate), Greg Meyer (alternate) and Dan Comfort (alternate)  
 Tree Commission: Brenda Neumeister and Tom Miller

We have had the opportunity to interview all of the candidates for openings on various city boards and commission and we are very gratified by the large number of citizens who have come forward to serve our community.

If you have any questions regarding these recommendations please feel free to contact either of us.

## MEMORANDUM

To: Kevin Brunner, City Manager  
 Fr: Dean Fischer, Director of Public Works  
 Date: April 30, 2009



**Subject: Wastewater Treatment Utility Facilities Plan:  
 Agreement for Planning & Design Services for Equipment Replacement  
 Agreement for User Charge System Development**

Strand Associates were contracted for Facility Planning Services for the Wastewater Treatment Plant in May 2008. The City determined planning was necessary to address the age of the current treatment facility as to its future operation, maintenance, and replacement. As this planning process moved forward, staff and Strand recognized that the facilities upgrade or replacement could be done in two phases. One phase would mainly be equipment replacement or upgrades. The second phase would be an upgrade of the existing biological treatment system or construction of a completely different biological system, which would include some equipment work also. Attached is very broad listing of the equipment upgrade and replacements along with estimated costs.

In December Staff directed Strand to file applications to the DNR for Clean Water Loan Fund monies in case the City wanted to move ahead with some of the replacements determined in the Facilities Planning in 2009. As it turns out, some Federal Stimulus monies are being directed to the Clean Water Loan Fund program. The really good news is that some of the Federal Stimulus monies will be given as grants. DNR has not declared how much project costs will be grant eligible, but there have been discussions up to 50%. Grant money is good news for any community that has a project planned and is ready to go. Staff has been preparing for the equipment replacement project, but was not really expecting to move the project forward until later this year or even next year, but with a possibility of 50% grant monies, staff is recommending that the city move this project along.

June 30 is the deadline to submit the project for consideration for Clean Water Fund monies, whether loan or grant. The project needs to be planned, designed, and ready for bid prior to June 30. In the council's packet are two agreements for services with Strand Associates to perform the necessary work for the completion of submittal requirements for the DNR's Cleanwater Fund application.

The first agreement is for the planning, design, and construction related services for the Equipment Replacement Project. The not to exceed fee is \$315,000.

The second agreement is for the development of a User Charge System, which will incorporate the Equipment Replacement Project estimated costs. Basically this is a sewer rate study. The fee for this agreement is a not to exceed \$25,000.

Attached is a letter from Jane Carlson, Strand Associates, explaining the methodology they used to determine their fees for the two agreements for the project.

The Clean Water Fund is a competitive loan program. The projects presented by municipalities are ranked by DNR. Once the projects are ranked, the funding is distributed to the projects as far as the funding is available. There are approximately 380 projects on the Clean Water Fund list with Whitewater ranked around 50<sup>th</sup>. Our ranking looks pretty good, but we do not know exactly how much money the Clean Water Fund has to distribute, thus we cannot state with any confidence that the project will be funded with this cycle of monies.

Will the City be wasting any monies should the project not get funded? No. The Equipment Replacement Project will still need to be done in the very near future. The engineering work to be completed by Strand will all be valid whether done now or later.

Jane Carlson will attend the meeting to be available for any questions or discussion.

DPW is recommending the Council approve both agreements for the Equipment Replacement Project for the Wastewater Utility with Strand Associates, Madison.

**Agreement for Planning & Design Services for Equipment Replacement –  
Not to exceed \$315,000**

**Agreement for User Charge System Development – Not to exceed \$25,000**

The funding for the engineering services contracts will come from the Wastewater Capital Fund account.

## Whitewater ITA and PERF

Equipment Upgrades

Influent Pumps	\$ 350,000
Wash Press	\$ 150,000
RBC Ventilation	\$ 560,000
Filters	\$ 1,710,000
Ultraviolet Disinfection	\$ 620,000
Sludge Pumps (7 total)	\$ 315,000
Digester Gas Safety Equipment	\$ 258,000
Aluminum Dome over Secondary Digester	\$ 350,000
Primary Digester Mixing (2)	\$ 450,000
Secondary Digester Mixers (2)	\$ 100,000
Land Application Equipment (Pre-owned)	\$ 50,000

Sub-total \$ 4,913,000

Biological Treatment

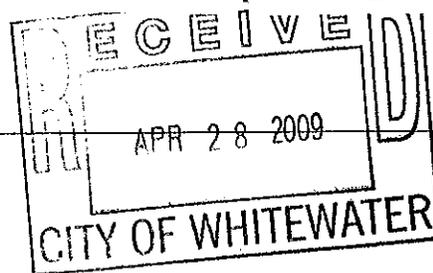
Demolition and Power Upgrades	\$ 600,000
New SCADA	\$ 300,000
Aeration Tanks and Blowers	\$ 3,500,000
RAS Pumps	\$ 140,000
Stamford Baffles and Coating on Clarifiers	\$ 150,000
WAS Thickening	\$ 300,000
Building Renovations	\$ 1,400,000

Sub-total \$ 6,390,000

Total \$ 11,303,000



C-2 + C-3



910 West Wingra Drive  
Madison, WI 53715  
Phone: 608-251-4843  
Fax: 608-251-8655

April 24, 2009

**Office Locations**

Madison, WI  
Joliet, IL  
Louisville, KY  
Lexington, KY  
Mobile, AL  
Columbus, IN  
Columbus, OH  
Indianapolis, IN  
Milwaukee, WI  
Cincinnati, OH  
Phoenix, AZ

Mr. Dean Fischer  
City of Whitewater  
312 West Whitewater Street  
P.O. Box 178  
Whitewater, WI 53190

Re: Proposed Agreements for Wastewater Treatment Plant (WWTP)  
Design and User Charge System Projects

Dear Dean,

[www.strand.com](http://www.strand.com)

Enclosed please find the proposed Agreements for the WWTP equipment replacement design project and the user charge system project. This letter explains how our fees were developed.

1. WWTP Equipment Replacement Project Design Fee

As we do for all of our WWTP design projects, Strand Associates, Inc.<sup>®</sup> developed the design fee using several methods and then considered project location, timing, and other factors. For this project, our fee development method is outlined below.

a. Wisconsin Department of Natural Resources (WDNR) Fee Tables

The WDNR developed an *A/E Procurement Information Packet for Municipal Wastewater Treatment Projects Funded by the Clean Water Fund* in February 1992. The tables include low (10 percent), mean, and high (90 percent) engineering fees compared to construction costs based on data collected by the WDNR. Strand's design fees have historically fallen just 10 percent above the mean values in these tables. To determine the construction cost, we started with the \$5 million WWTP project submitted in the WDNR Priority Evaluation Review Form (PERF) in December. We understand the scope of the WWTP project may change slightly over the next few weeks, but we assumed the total project cost will not be significantly higher than \$5 million. The \$5 million figure included a factor of 1.35 for engineering and contingencies. Dividing by this factor and then multiplying by 1.2 for contingencies (20 percent contingencies is typical during the planning stage of a project) yields a construction cost of about \$4.5 million. The WDNR tables indicate the mean engineering fee plus 10 percent for a \$4.5 million construction project would be \$305,800.

b. Consulting Engineers Council (CEC)-Wisconsin Fee Curves

The CEC of Wisconsin published *A Guide for the Engagement of Consulting Engineering Services* in 1972 for use during the former Environmental Protection Agency grant program. For "basic" WWTP design services and a construction cost of \$4.5 million, the fee would be \$290,300.

Mr. Dean Fischer  
 City of Whitewater  
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 April 24, 2009



c. United States Environmental Protection Agency (USEPA) Fee Tables

The USEPA published tables in the Federal Register in 1985 as a guideline for determining engineering fees for federal grant WWTP projects. The fee for planning and design for a \$4.5 million project would be 8.35 percent or \$375,800. Subtracting \$40,000 for planning would result in a design fee of \$335,800.

d. Number of Plan Sheets Basis

From experience, Strand Associates has information about the typical fee per drawing sheet for its WWTP projects. For this method, we first developed a preliminary list of drawings for the project based on the scope. This list is attached for the Whitewater WWTP equipment replacement project. There are 57 drawing sheets projected. At a current fee of \$5,690 per drawing sheet, the fee would be \$324,100.

e. Project-Specific Factors

We reviewed project-specific factors to help determine whether the fee should be on the high or low end of the fees calculated by the above four methods.

Factors that would tend to reduce the fee are as follows:

- (1) The required engineering report will be brief and the introductory sections can be derived from the Facilities Plan we are writing.
- (2) Whitewater is relatively close to our offices.

Factors that would tend to increase the fee are as follows:

- (1) The project involves rehabilitation of several areas in the WWTP, and rehabilitation projects tend to require more engineering time.
- (2) The engineering report, drawings, and specifications need to be prepared and submitted to the WDNR on a very aggressive schedule and will generally require that more time be spent by higher billing rate staff to meet the proposed schedule.

Based on the methods and factors considered above, we are proposing a limiting fee of \$315,000 for the engineering report and design of your project.

2. WWTP User Charge System Fee

We have prepared a separate agreement for the user charge system because we understand you may ask a different consultant to do this work. To arrive at our fee, we first looked at the WDNR tables from the *A/E Procurement Information Packet for Municipal Wastewater Treatment Projects Funded by the Clean Water Fund*. These tables give user charge system development cost in terms of treatment plant design average flow and population. The fee in 1991 dollars would have been \$10,000, which would translate to about \$24,100 in 2009



Mr. Dean Fischer  
City of Whitewater  
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April 24, 2009

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dollars using our typical engineering rate increases of 5 percent per year. We then considered that Whitewater's user charge system will need to include an update of septage, holding tank, and other hauled waste fees; the user charge system will need to be submitted to the WDNR as a preliminary version and then as final version after bidding; and the preliminary user charge system will need to be developed on an aggressive schedule to meet the June 30, 2009, WDNR deadline. Therefore, we are proposing a fee of \$25,000.

Please note that to submit the engineering report to the WDNR in time for its approval by June 30, and to meet the drawings and specifications deadline of June 30, we are asking for Whitewater's approval of our Agreements no later than May 6, 2009.

We are very interested in assisting Whitewater with this important and timely project. Please let us know if you require any additional information.

Sincerely,

STRAND ASSOCIATES, INC.®

Jane M. Carlson, P.E.

Enclosures

c/enc.: Tim Reel, Superintendent, Whitewater WWTP

## WHITEWATER PRELIMINARY LIST OF DRAWINGS

<u>SHEET NO.</u>	<u>DRAWING NO.</u>	<u>TITLE</u>
<b><u>00 - GENERAL DRAWINGS</u></b>		
1	00-G0-01	TITLE SHEET, PROJECT LOCATION
2	00-G0-02	LIST OF DRAWINGS AND DESIGN CRITERIA
3	00-G0-03	STANDARD SYMBOLS - 1
4	00-G0-04	STANDARD SYMBOLS - 2
5	00-G0-05	ABBREVIATIONS
6	00-G6-01	HYDRAULIC PROFILE
7	00-G6-02	SCHEMATIC FLOW DIAGRAM
<b><u>05 - SITE</u></b>		
8	05-C1-01	SITE LOCATION AND GRADING PLAN
9	05-C5-02	SITE DETAILS
10	05-M1-01	YARD PIPING PLAN
11	05-E1-01	ELECTRICAL SITE PLAN
<b><u>10 - MAIN CONTROL BUILDING</u></b>		
12	10-R1-01	RAW WASTEWATER PUMPING - DEMOLITION
13	10-ASM1-01	RAW WASTEWATER PUMPING - PLANS AND SECTIONS
14	10-E1-01	RAW WASTEWATER PUMPING - ELECTRICAL
<b><u>20 - PRELIMINARY TREATMENT AND CHEMICAL FEED BUILDING</u></b>		
15	20-R1-01	INFLUENT SCREENING - DEMOLITION
16	20-ASM1-01	INFLUENT SCREENING - PLANS AND SECTIONS
17	20-E1-01	INFLUENT SCREENING - ELECTRICAL
<b><u>30 - PRIMARY CLARIFIERS AND SLUDGE PUMPING</u></b>		
18	30-R1-01	PRIMARY CLARIFIERS AND SLUDGE PUMPING - DEMOLITION
19	30-ASM1-01	PRIMARY CLARIFIERS AND SLUDGE PUMPING - PLANS
20	30-ASM3-01	PRIMARY CLARIFIERS AND SLUDGE PUMPING - SECTIONS AND DETAILS
21	30-E1-01	PRIMARY CLARIFIERS AND SLUDGE PUMPING - ELECTRICAL
<b><u>40 - RBC BUILDINGS</u></b>		
22	40-R1-01	RBC BUILDINGS - DEMOLITION
23	40-H1-01	RBC BUILDINGS - VENTILATION PLANS, SECTIONS, AND DETAILS
24	40-E1-01	RBC BUILDINGS - ELECTRICAL
<b><u>50 - SECONDARY CLARIFIERS AND SLUDGE PUMPING</u></b>		
25	50-R1-01	SECONDARY CLARIFIERS AND SLUDGE PUMPING - DEMOLITION
26	50-ASM1-01	SECONDARY CLARIFIERS AND SLUDGE PUMPING - PLANS
27	50-ASM3-01	SECONDARY CLARIFIERS AND SLUDGE PUMPING - SECTIONS AND DETAILS
28	50-E1-01	SECONDARY CLARIFIERS AND SLUDGE PUMPING - ELECTRICAL
<b><u>60 - FILTRATION BUILDING</u></b>		
29	60-R1-01	FILTRATION BUILDING - DEMOLITION
30	60-ASM1-01	FILTRATION BUILDING - PLAN
31	60-ASM3-01	FILTRATION BUILDING - SECTIONS - 1
32	60-ASM3-02	FILTRATION BUILDING - SECTIONS - 2
33	60-ASM5-01	FILTRATION BUILDING - DETAILS
34	60-M6-01	FILTRATION BUILDING - SCHEMATICS
35	60-E1-01	FILTRATION BUILDING - ELECTRICAL
<b><u>70 - ANEROBIC DIGESTION</u></b>		
36	70-R1-01	ANAEROBIC DIGESTION - DEMOLITION PLANS
37	70-R5-01	ANAEROBIC DIGESTION - DEMOLITION DETAILS
38	70-ASM1-01	ANAEROBIC DIGESTION - CONTROL BUILDING PLANS
39	70-ASM1-02	ANAEROBIC DIGESTION - PRIMARY DIGESTER PLANS
40	70-ASM1-03	ANAEROBIC DIGESTION - SECONDARY DIGESTER PLANS
41	70-ASM3-01	ANAEROBIC DIGESTION - CONTROL BUILDING SECTIONS
42	70-ASM3-02	ANAEROBIC DIGESTION - PRIMARY DIGESTER SECTIONS
43	70-ASM3-03	ANAEROBIC DIGESTION - SECONDARY DIGESTER SECTIONS
44	70-PH1-01	ANAEROBIC DIGESTION - PLUMBING AND HVAC
45	70-E1-01	ANAEROBIC DIGESTION - ELECTRICAL
<b><u>99 - SCHEDULES AND DETAILS</u></b>		
46	99-AS5-01	ARCHITECTURAL/STRUCTURAL DETAILS - 1
47	99-AS5-02	ARCHITECTURAL/STRUCTURAL DETAILS - 2
48	99-AS5-03	ARCHITECTURAL/STRUCTURAL DETAILS - 3
49	99-AS6-01	ARCHITECTURAL/STRUCTURAL SCHEDULES
50	99-M5-01	MECHANICAL - DETAILS
51	99-PH5-01	PLUMBING AND HVAC DETAILS
52	99-H6-01	HVAC SCHEDULES
53	99-E2-04	ELECTRICAL - MCC ELEVATIONS AND SCADA ONE-LINE
54	99-E5-01	ELECTRICAL - DETAILS
55	99-E6-01	ELECTRICAL - SCHEDULES - 1
56	99-E6-02	ELECTRICAL - SCHEDULES - 2
57	99-E6-03	ELECTRICAL - SCHEDULES - 3



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[www.strand.com](http://www.strand.com)

April 30, 2009

City of Whitewater  
312 W. Whitewater Street  
PO Box 178  
Whitewater, WI 53190

Attention: Mr. Dean Fischer, Director of Public Works

Re: Agreement for Services  
Wastewater Treatment Plant Equipment Replacement Project  
User Charge System

This is an Agreement between the City of Whitewater, Wisconsin, hereinafter referred to as OWNER, and Strand Associates, Inc.<sup>®</sup>, hereinafter referred to as ENGINEER, to provide user charge system (UCS) development services (Services) for the wastewater treatment plant equipment replacement project, hereinafter referred to as the PROJECT. This Agreement shall be in accordance with the following elements.

**Scope of Services**

The Services to be provided under this Agreement can generally be described as those Services necessary to complete a preliminary and final UCS in accordance with the Wisconsin Department of Natural Resources (WDNR) requirements. These Services will include the following major elements:

1. Review background information provided by OWNER including existing wastewater UCS, previous wastewater utility audits, and current wastewater utility budgets.
2. Develop a spreadsheet template for the UCS, incorporate current budgetary information based on planning level opinions of cost, and make cost allocations based on the appropriate wastewater components such as customer, flow, biochemical oxygen demand (BOD), solids, and phosphorus. Review template with OWNER and incorporate OWNER's comments. The UCS will be developed using the "cash basis" approach and the UCS will include suggested charges for septage, holding tank, and other hauled wastes.
3. Update opinion of probable cost information as it becomes available from the ENGINEER's design project and incorporate it into the UCS template.



City of Whitewater  
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4. Prepare a preliminary UCS for OWNER's submittal with the Clean Water Fund grant and loan application.
5. Following the WNDR's preliminary determination on grant and loan funding, ENGINEER will make a presentation to OWNER's council about the preliminary UCS.
6. Following PROJECT bidding, incorporate updated PROJECT cost information into the UCS template.
7. Prepare a final UCS for OWNER's submittal with the Clean Water Fund Financial Assistance Agreement (FAA).

#### **Service Elements Not Included**

The following services are not included in this Agreement. If such services are required, they shall be provided as noted.

1. Federal and State Aid and Loan Applications: Services do not include activities related to or preparation of applications for financial assistance including the Clean Water Fund application. Any services of this type shall be provided for by an amendment to this Agreement or through a separate agreement with OWNER.
2. Public Hearings: Any services involved in public hearings required by any governmental agency shall be provided for by an amendment to this Agreement.
3. Bidding and Construction-Related Services: Bidding and construction-related services for the PROJECT shall require a separate agreement with OWNER.
4. Permit and Plan Review Fees: All permit and plan review fees payable to regulatory agencies shall be paid for by OWNER.
5. Preparation for and/or Appearance in Litigation on Behalf of OWNER: Any services of this type required to be provided by ENGINEER shall be provided through a separate agreement with OWNER.

#### **Compensation**

Services shall be provided on an hourly rate basis, plus expenses, for a total limiting fee not to exceed \$25,000. Hourly billing rates are adjusted annually on July 1.

Expenses incurred such as those for travel, meals, printing, postage, copies, computer, electronic communication, and long distance telephone calls shall be billed at actual cost plus 10 percent.



City of Whitewater  
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The limiting fee includes a wage scale that assumes the Services are completed as indicated. Should the completion time be extended, it may be cause for an adjustment in the limiting fee that reflects any wage scale adjustments made.

The limiting fee shall not be exceeded without prior notice to and agreement by OWNER but may be adjusted for time delays, time extensions, amendments, and changes in the **Scope of Services**. Any adjustment shall be negotiated based on ENGINEER's increase in costs caused by delays, extensions, amendments, or changes.

Only sales taxes or other taxes on Services that are in effect at the time this Agreement is executed are included in the total Compensation. If the tax laws are subsequently changed by legislation during the life of this Agreement, this Agreement shall be adjusted to reflect the net change.

#### **Schedule**

Assuming ENGINEER receives the signed Agreement by May 6, 2009, the preliminary UCS will be completed by June 30, 2009. The final UCS will be completed within about one month of receipt of bids for the wastewater treatment plant construction project.

#### **Standard of Care**

The Standard of Care for all Services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

#### **Opinion of Cost**

Any opinions of cost prepared by ENGINEER are supplied for general guidance of OWNER only. ENGINEER has no control over competitive bidding or market conditions and cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to OWNER.

#### **Changes**

1. OWNER may make changes within the general scope of this Agreement in the Services to be performed. If such changes cause an increase or decrease in ENGINEER's cost of or time required for performance of any Services under this Agreement, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly.



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2. No services for which additional compensation will be charged by ENGINEER shall be furnished without the written authorization of OWNER. The fee established herein shall not be exceeded without agreement by OWNER but may be adjusted for time delays, time extensions, amendments, or changes in the **Scope of Services**.
3. If there is a modification of WDNR requirements relating to the Services to be performed under this Agreement subsequent to the date of execution of this Agreement, the increased or decreased cost of performance of the Services provided for in this Agreement shall be reflected in an appropriate modification of this Agreement.

#### **Extension of Services**

This Agreement may be extended for additional services upon authorization by OWNER. Extension of Services shall be provided either on a lump sum fee or an hourly rate basis plus expenses.

#### **Payment**

OWNER shall make monthly payments to ENGINEER for Services performed in the preceding month based upon monthly statements. Nonpayment 30 days after the date of receipt of invoice may, at ENGINEER's option, result in assessment of a 1 percent per month carrying charge on the unpaid balance.

#### **Data Provided by Others**

ENGINEER is not responsible for the quality or accuracy of data nor for the methods used in the acquisition or development of any such data where such data is provided by or through OWNER, contractor, or others to ENGINEER and where ENGINEER's Services are to be based upon such data. Such data includes, but is not limited to, previous UCSs and associated data, reports, calculations, designs, drawings, specifications, record drawings, contractor's marked-up drawings, and topographical surveys.

#### **Utilization of Women and Minority Businesses**

ENGINEER agrees that qualified women and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of WDNR financially assisted contracts and subcontracts. This pertains to the PROJECT as it is anticipated that a Wisconsin Clean Water Fund grant and loan will be used to finance the PROJECT.



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**Termination**

This Agreement may be terminated with cause in whole or in part in writing by either party subject to a two-week notice and the right of the party being terminated to meet and discuss the termination before the termination takes place. ENGINEER shall be paid for all completed or obligated Services up to the date of termination.

**Third-Party Beneficiaries**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either OWNER or ENGINEER. ENGINEER's services under this Agreement are being performed solely for OWNER's benefit, and no other party or entity shall have any claim against ENGINEER because of this Agreement or the performance or nonperformance of services hereunder. OWNER and ENGINEER agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors, and other entities involved in this project to carry out the intent of this provision.

**Dispute Resolution**

Except as may be otherwise provided in this Agreement, all claims, counterclaims, disputes, and other matters in question between OWNER and ENGINEER arising out of or relating to this Agreement or the breach thereof shall be decided by mediation.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement.

ENGINEER:

OWNER:

STRAND ASSOCIATES, INC.®

CITY OF WHITEWATER

\_\_\_\_\_  
Matthew S. Richards  
Corporate Secretary

Date

\_\_\_\_\_  
Kevin Brunner  
City Manager

Date



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April 30, 2009

City of Whitewater  
312 West Whitewater Street  
P.O. Box 178  
Whitewater, WI 53190

Attention: Mr. Dean Fischer, Director of Public Works

Re: Agreement for Planning and Design Services  
Wastewater Treatment Plant Equipment Replacement Project

This is an Agreement between the City of Whitewater, Wisconsin, hereinafter referred to as OWNER, and Strand Associates, Inc.<sup>®</sup>, hereinafter referred to as ENGINEER, to provide planning, design, and construction-related services (Services) for the Wastewater Treatment Plant (WWTP) Equipment Replacement, hereinafter referred to as the PROJECT. This Agreement shall be in accordance with the following elements.

**Scope of Services**

General

The Services to be provided can generally be described as an engineering report, design, and construction-related services for replacing the influent pumps, replacing the screenings conveyor with a screenings wash press, rehabilitating or replacing primary and final clarifier collector mechanisms, rehabilitating rotating biological contactor (RBC) building ventilation, rehabilitating or replacing effluent filtration equipment, upgrading or replacing disinfection equipment, rehabilitating or replacing existing sludge pumps, replacing digester gas safety equipment, replacing primary and secondary digester mixing systems, replacing the secondary digester cover and access, and purchase of pre-owned land application equipment.

Planning Services

The engineering report will include information on projected wastewater flows and loadings, the need for the PROJECT, and costs. One meeting with the Wisconsin Department of Natural Resources (WDNR) reviewer in Madison is also included.



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### Design Services

Design Services will include preparation of drawings and specifications, attendance at up to four review meetings with OWNER, incorporation of OWNER's comments into design documents, preparation of an opinion of probable cost for OWNER's use in Clean Water Fund applications, furnishing eight sets of final drawings and specifications for governmental review and OWNER review, and reporting to OWNER on the progress of the design services.

### Construction-Related Services

Construction-Related Services will include the following major elements with the completion dates to be determined following WDNR approval of drawings and specifications.

1. Furnishing up to 50 sets of drawings and specifications for bidding.
2. Preparation of a parallel cost ratio and plan of operation for OWNER's use in Clean Water Fund Financial Assistance Agreement, and provision of information for Clean Water Fund disbursement requests prepared by OWNER.
3. Assistance in obtaining construction bids, tabulating and analyzing bid results, assisting OWNER in the award of construction contracts, preparation of formal Contract Documents for the award of contracts, consultation and advice during construction, reviewing contractor's shop drawings, reviewing contractor's periodic estimates and final estimates for payment, making visits to the job site during construction to review the PROJECT, attending approximately monthly construction progress meetings, providing punch list of construction issues remaining to be completed at substantial completion, and making final inspection with OWNER and contractor for acceptance of work.
4. Providing a part-time resident project representative (RPR) for observation of construction. In furnishing observation services, ENGINEER's efforts shall be directed toward determining for OWNER that the completed PROJECT will, in general, conform to the Contract Documents; but ENGINEER shall not supervise, direct, or have control over contractor's work, and shall not be responsible for contractor's construction means, methods, techniques, sequences, procedures, health or safety precautions or programs, or for contractor's failure to perform the construction work in accordance with the Contract Documents.
5. Drafting of record drawings based on contractor's marked-up drawings maintained throughout the PROJECT construction. Record drawings will be transmitted in paper format.



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6. Preparation of an amendment to the Operation and Maintenance Manual for the Wastewater Treatment Plant that addresses this PROJECT. Copies will be provided in both written and electronic portable document file (PDF) format.
7. Start-up services including consultation with OWNER regarding training of operators, operating assistance during start-up, and responding to operator's inquiries.
8. Supervisory Control and Data Acquisition (SCADA) system programming services for the existing Wastewater Treatment Plant SCADA System. Services include configuring Human-Machine-Interface software and developing process control graphic screens.
9. Related consultation, assistance, and communications with OWNER.

ENGINEER will provide civil, structural, mechanical, and electrical engineering services along with technical personnel and a part-time RPR. The hours of engineering time, resident and technician time, and secretarial time will be determined with OWNER following WDNR approval of drawings and specifications. ENGINEER is providing drafting services only for record drawings based on the records presented to ENGINEER by contractor and OWNER. ENGINEER shall not be liable for the accuracy of the record drawing information provided by contractor and OWNER.

#### **Service Elements Not Included**

The following services are not included in this Agreement. If such services are required, they shall be provided in accordance with terms and conditions outlined in an amendment to this Agreement.

1. Additional and Extended Services during construction made necessary by:
  - a. Work damaged by fire or other cause during construction.
  - b. A significant amount of defective or neglected work of any contractor.
  - c. Prolongation of the time of the construction contract.
  - d. Default by contractor under the construction contract.

Any services of this type shall be provided through an amendment to this Agreement.

2. Archaeological or Botanical Investigations: The compensation does not include the cost for archaeological or botanical investigations should these be required. ENGINEER shall assist OWNER in engaging the services of an archaeologist or botanist, if required, to perform the field investigations necessary for agency review.



City of Whitewater  
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3. Flood Studies: Any services involved in performing flood and floodway studies, if required, shall be provided for by an amendment to this Agreement or through a separate agreement with OWNER.
4. Geotechnical Engineering: The compensation does not include the cost for geotechnical engineering. It is anticipated ENGINEER's need for geotechnical engineering information will be coordinated through OWNER and OWNER's Geotechnical Consultant. The compensation does not include the cost for soil borings. If soil borings are required, ENGINEER shall assist OWNER in direct procurement of drilling services.
5. Land and Easement Surveys/Procurement: Any services of this type including, but not limited to, a record search, field work, preparation of legal descriptions, and/or assistance to OWNER for securing land rights necessary for siting sanitary sewer, tanks, and appurtenances shall be provided through a separate agreement with OWNER.
6. User Charge System Development: If a preliminary or final user charge system is required of the ENGINEER, it shall be provided through a separate agreement with OWNER.
7. Permit and Plan Review Fees: All permit and plan review fees payable to regulatory agencies shall be paid for by OWNER.
8. Preparation for and/or Appearance in Litigation on Behalf of OWNER: Any services of this type required to be provided by ENGINEER shall be provided through a separate agreement with OWNER.
9. Review of Product Substitutions or Means, Method, Technique, Sequence, or Procedure Substitutions Proposed by Contractor: The terms of the construction Contract (GC 6.05B and GC 6.05E) call for the construction contractor to reimburse OWNER for ENGINEER's cost for evaluating substitute products, means, method, technique, sequence, or procedure of construction. ENGINEER's cost for such evaluations is not included in the scope of this Agreement. Provision of such service by ENGINEER shall be provided for by an amendment to this Agreement.
10. Revising Designs, Drawings, Specifications, and Documents: Any services required after these items have been previously approved by state or federal regulatory agencies, because of a change in PROJECT scope or where such revisions are necessary to comply with changed state and federal regulations that are put in force after Services have been partially completed, shall be provided for by an amendment to this Agreement.



City of Whitewater  
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11. Services Furnished During Readvertisement for Bids, if Ordered by OWNER: If a Contract is not awarded pursuant to the original bids, any services of this type shall be provided for by an amendment to this Agreement.
12. Services Related to Buried Wastes and Contamination: Should buried solid, liquid, or potentially hazardous wastes or subsurface or soil contamination be uncovered at the site, follow-up investigations may be required to identify the nature and extent of such wastes or subsurface soil or groundwater contamination and to determine appropriate methods for managing of such wastes or contamination and for follow-up monitoring. Investigation, design, or construction-related services related to buried solid, liquid, or potentially hazardous wastes or soil or groundwater contamination shall be provided for through a separate agreement with OWNER.

### **Compensation**

Planning Services and Design Services will be provided on an hourly rate basis, plus expenses, for a total limiting fee not to exceed \$315,000.

Expenses incurred such as those for travel, meals, printing, postage, copies, computer, electronic communication, and long distance telephone calls shall be billed at actual cost plus 10 percent.

The limiting fee includes a wage scale that assumes the Services are completed as indicated. Should the completion time be extended, it may be cause for an adjustment in the limiting fee that reflects any wage scale adjustments made.

The limiting fee shall not be exceeded without prior notice to and agreement by OWNER but may be adjusted for time delays, time extensions, amendments, and changes in the **Scope of Services**. Any adjustment shall be negotiated based on ENGINEER's increase in costs caused by delays, extensions, amendments, or changes.

Only sales taxes or other taxes on Services that are in effect at the time this Agreement is executed are included in the Compensation. If the tax laws are subsequently changed by legislation during the life of this Agreement, this Agreement shall be adjusted to reflect the net change.

Compensation by OWNER to ENGINEER for Construction-Related Services will be determined following WDNR approval of drawings and specifications.

### **Schedule**

ENGINEER intends to begin Services on or about April 20, 2009. It is anticipated the engineering report will be submitted to the WDNR by about May 15, 2009. If



City of Whitewater  
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April 30, 2009

ENGINEER can begin design on May 6, 2009, it is anticipated that completion of drawings and specifications and submittal to the WDNR will occur by June 30, 2009. Final drawings and specifications for bidding purposes will be prepared within about one month of receiving WDNR comments on the drawings and specifications. It is anticipated that all Planning Services and Design Services will be completed by October 31, 2009.

### **Standard of Care**

The Standard of Care for all Services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

### **OWNER's Responsibilities**

1. Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to this PROJECT including previous reports, previous drawings and specifications, and any other data relative to the scope of this PROJECT.
2. Furnish to ENGINEER, as required by ENGINEER for performance of Services as part of this Agreement, data prepared by or services of others obtained or prepared by OWNER relative to the scope of this PROJECT, such as soil borings, probings and subsurface explorations, and laboratory tests and inspections of samples, all of which ENGINEER may rely upon in performing Services under this Agreement.
3. Provide access to the site as required for ENGINEER to perform Services under this Agreement.
4. Guarantee access to and make all provisions for ENGINEER to enter upon public and private lands as required for ENGINEER to perform Services under this Agreement.
5. Examine all reports, sketches, estimates, special provisions, drawings, and other documents presented by ENGINEER and shall render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the performance of ENGINEER.
6. Provide all legal services as may be required for the development of this PROJECT.



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April 30, 2009

7. Retain the services of a Soils Consultant to provide any necessary geotechnical evaluation and recommendations, if requested by the ENGINEER.
8. Agree to hold harmless and indemnify ENGINEER against all damages, claims, and losses, including defense costs, arising out of OWNER's modification or reuse of any of the drawings and specifications without the written authorization of ENGINEER. ENGINEER acknowledges that the drawings and specifications prepared in performance of this Agreement shall be property of OWNER for this PROJECT upon payment. Therefore, ENGINEER will, within the scope of this Agreement, provide OWNER with reproducible copies including electronic copies of PROJECT drawings and specifications and authorizes OWNER to make copies of such drawings.

#### **Opinion of Cost**

Any opinions of cost prepared by ENGINEER are supplied for general guidance of OWNER only. ENGINEER has no control over competitive bidding or market conditions and cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to OWNER.

#### **Payment Requests**

ENGINEER's review of Payment Requests from contractor(s) shall not impose responsibility to determine that title to any of the work has passed to OWNER free and clear of any liens, claims, or other encumbrances. Provision of such service by ENGINEER shall be provided for by an amendment to this Agreement.

#### **Changes**

1. OWNER may make changes within the general scope of this Agreement in the Services to be performed. If such changes cause an increase or decrease in ENGINEER's cost of or time required for performance of any Services under this Agreement, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly.
2. No services for which additional compensation will be charged by ENGINEER shall be furnished without the written authorization of OWNER. The fee established herein shall not be exceeded without agreement by OWNER but may be adjusted for time delays, time extensions, amendments, or changes in the **Scope of Services**.
3. If there is a modification of WDNR requirements relating to the Services to be performed under this Agreement subsequent to the date of execution of this Agreement, the increased or decreased cost of performance of the



City of Whitewater  
Page 8  
April 30, 2009

Services provided for in this Agreement shall be reflected in an appropriate modification of this Agreement.

#### **Extension of Services**

This Agreement may be extended for additional services upon authorization by OWNER. Extension of Services shall be provided either on a lump sum fee or an hourly rate basis plus expenses.

#### **Payment**

OWNER shall make monthly payments to ENGINEER for Services performed in the preceding month based upon monthly statements. Nonpayment 30 days after the date of invoicing may, at ENGINEER's option, result in assessment of a 1 percent per month carrying charge on the unpaid balance.

#### **Data Provided by Others**

ENGINEER is not responsible for the quality or accuracy of data nor for the methods used in the acquisition or development of any such data where such data is provided by or through OWNER, contractor, or others to ENGINEER and where ENGINEER's Services are to be based upon such data. Such data includes, but is not limited to, soil borings, groundwater data, chemical analyses, geotechnical testing, reports, calculations, designs, drawings, specifications, record drawings, contractor's marked-up drawings, and topographical surveys.

#### **Utilization of Women and Minority Businesses**

ENGINEER agrees that qualified women and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of WDNR financially assisted contracts and subcontracts. This pertains to the PROJECT as it is anticipated that a Wisconsin Clean Water Fund grant and loan will be used to finance the PROJECT.

#### **Termination**

This Agreement may be terminated with cause in whole or in part in writing by either party subject to a two-week notice and the right of the party being terminated to meet and discuss the termination before the termination takes place. ENGINEER shall be paid for all completed or obligated Services up to the date of termination.



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**Third-Party Beneficiaries**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either OWNER or ENGINEER. ENGINEER's services under this Agreement are being performed solely for OWNER's benefit, and no other party or entity shall have any claim against ENGINEER because of this Agreement or the performance or nonperformance of services hereunder. OWNER and ENGINEER agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors, and other entities involved in this project to carry out the intent of this provision.

**Dispute Resolution**

Except as may be otherwise provided in this Agreement, all claims, counterclaims, disputes, and other matters in question between OWNER and ENGINEER arising out of or relating to this Agreement or the breach thereof will be decided first by mediation, if the parties mutually agree, or with a bench trial in a court of competent jurisdiction within the State of Wisconsin.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement.

ENGINEER:

OWNER:

STRAND ASSOCIATES, INC.®

CITY OF WHITEWATER

\_\_\_\_\_  
Matthew S. Richards  
Corporate Secretary

Date

\_\_\_\_\_  
Kevin Brunner  
City Manager

Date

To: Dean Fischer, Director of Public Works

From: Chuck Nass, Superintendent Streets/ Parks and City Forester

Reference: **Equipment Replacement Fund Purchase - Backhoe**

Date: April 29, 2009

The city's 1990 backhoe is schedule for replacement this year. DPW is recommending that a second backhoe be purchase and the existing backhoe be kept for service. The backhoe is used by this department as well as the three utilities Water, Wastewater and Stormwater. The backhoe is out almost on a daily basis with one of the departments, thus the need for a second unit. I have found six (6) demo units from four (4) different companies. The suppliers and prices are as follows;

Triebold Implement, Inc. - Whitewater, Wis.	
2008 Case 580 super M (15 Hrs.)	\$67,575.00
Yale Equipment & Services, Inc. - Menomonee Falls, Wis.	
2008 JCB 3-CX-214 (560 Hrs.)	\$61,750.00
2008 JCB 3-CX-214 (350 Hrs)	\$65,800.00
FABCO- Milwaukee, Wis	
2007 Caterpillar 420-E (962 Hrs.)	\$65,000.00
Brooks Tractor- Sun Prairie, Wis.	
2006 John Deere 310SG (583 Hrs.)	\$63,000.00
2008 John Deere 310 SJ (84 Hrs.)	\$69,500.00

We have looked at and used each one of these backhoes. Every unit has complete unit factory warranty remaining on them up to 2000 hours. After discussing each unit's strengths and weakness with each department, I am recommending the purchase of the 2008 JCB 3-CX-214 with 560 Hours on it from Yale Equipment & Services for \$61,750.00.

Each utility budgeted \$11,000 toward this purchase for a total of \$33,000. The balance of the funding will come from the Equipment Replacement Fund.

**The recommendation is to purchase the 2008 JCB 3-CX-214 with 560 Hours from Yale Equipment & Services, Menomonee Falls, WI for the price of \$61,750.00.**

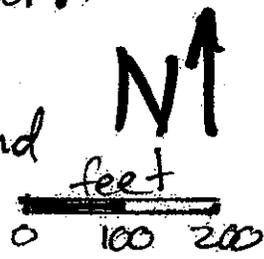
Please place this on the next City Council agenda for their consideration and approval. If you or anyone else has any questions or concerns; please advise.

OK JF  
4/30/09

Hoffman Property - Prop.  
Business / Park

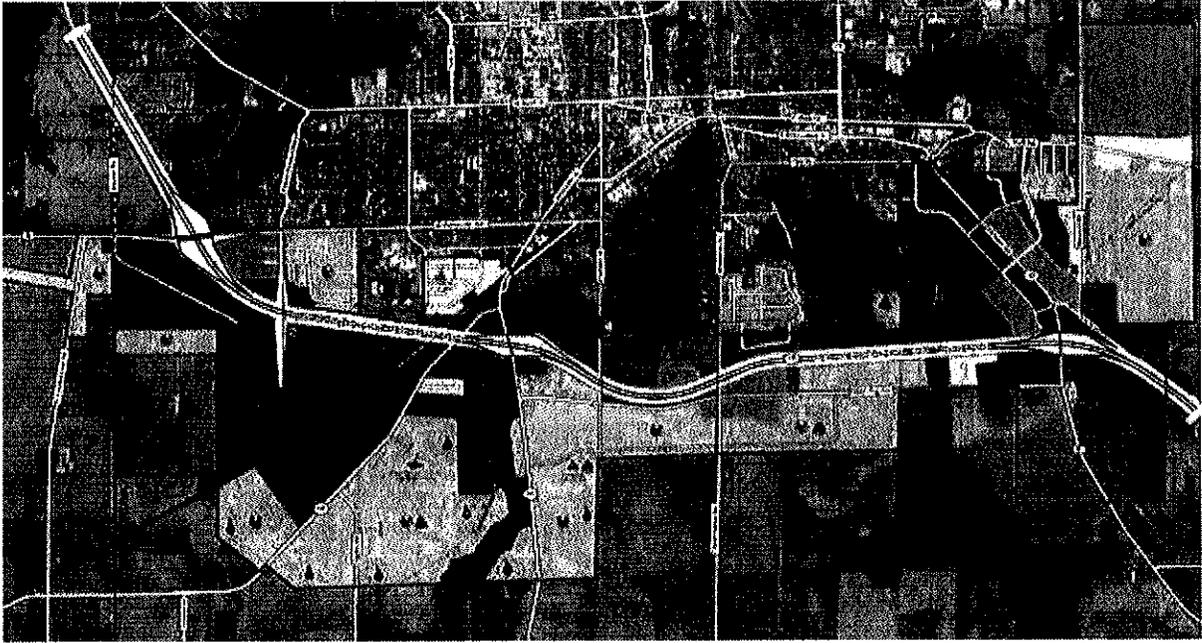
 Wetland

 Possible Wetland



Indian Mound Pkwy

**The City of Whitewater, Wisconsin**



**South Whitewater Neighborhood Development Plan**

Adopted by the Plan and Architectural Review Commission: April 20, 2009

Certified by the City Council: (\_\_\_\_\_)

RESOLUTION

ADOPTING THE *SOUTH WHITEWATER NEIGHBORHOOD DEVELOPMENT PLAN* AS A COMPONENT OF THE CITY OF WHITEWATER MASTER PLAN

WHEREAS, the City of Whitewater Plan and Architectural Review Commission has the authority under Wis. Stats. 62.23(c) to adopt a master plan for the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development of the city; and

WHEREAS, the Plan and Architectural Review Commission has caused to be created the attached *South Whitewater Neighborhood Development Plan* as a component of the City's master plan; and

WHEREAS, the Plan and Architectural Review Commission has duly noticed and held a public hearing on the aforementioned master plan component;

NOW THEREFORE BE IT RESOLVED that the Plan and Architectural Review Commission of the City of Whitewater hereby:

1. Adopts the attached *South Whitewater Development Neighborhood Plan* as a component of the City's master plan, including amendments adopted at the April 20, 2009 Plan and Architectural Review Commission meeting and reflected in the minutes from that meeting.
2. Certifies a copy of the attached plan to the City Council; and
3. Directs that the recommendations of the *South Whitewater Neighborhood Development Plan* shall control in the event of any conflicts with other previously adopted components of the city's master plan.

Resolution Adopted: April 20, 2009



Kristine Zaballos, Chairperson

ATTEST:



Jane Wegner, Plan and Architectural Review Commission Clerk

RESOLUTION

RESOLUTION CERTIFYING THE SOUTH WHITEWATER NEIGHBORHOOD DEVELOPMENT PLAN AS A COMPONENT OF THE CITY OF WHITEWATER MASTER PLAN

WHEREAS, the City of Whitewater Plan and Architectural Review Commission has the authority under Wis. Stats 62.23 (c) to adopt a master plan for the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development of the City;

AND WHEREAS, the Plan and Architectural Review Commission has caused to be created the attached *South Whitewater Neighborhood Development Plan* as a component of the City's master plan;

AND WHEREAS, the Plan and Architectural Review Commission has duly noticed and held a public hearing on the aforementioned master plan component;

AND WHEREAS, the Plan and Architectural Review Commission on April 20, 2009 approved the *South Whitewater Neighborhood Development Plan*, with certain text and map amendments, as a component of the City's master plan;

AND WHEREAS, the Common Council of the City of Whitewater recognizes the benefit to the City in utilizing a master plan to guide private development and public investment decisions;

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Whitewater hereby certifies the attached *South Whitewater Neighborhood Development Plan* as a component of the City's master plan.

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

AYES:

NOES:

ABSENT:

ADOPTED:

\_\_\_\_\_  
Kevin Brunner, City Manager

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

---

## Acknowledgements

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### Plan & Architectural Review Commission

Kristine Zaballos, Chair  
Greg Torres  
Rod Dalee  
Marilyn Kienbaum, Council Representative  
Thomas Miller  
David Stone  
Karen Coburn  
Daniel Comfort, Alternate  
Cort Hartmann, Alternate  
Maxwell Taylor, Alternate

### Common Council

Patrick Singer  
Lynn Binnie  
Marilyn Kienbaum  
Jim Olsen  
Jim M. Stewart  
Maxwell Taylor  
Jim Winship

### Planning Assistance By:

VANDEWALLE & ASSOCIATES, INC.  
120 East Lakeside Street  
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### City Staff

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Bruce Parker, Neighborhood Services Manager  
Dean Fischer, Public Works Director  
Matt Amundson, Park and Recreation Director  
Mary Nimm, Community Development Coordinator

### Consultant Staff

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Chris Landerud, Lead Designer  
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### Prepared For:

City of Whitewater  
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[www.ci.whitewater.wi.us](http://www.ci.whitewater.wi.us)

The City would also like to thank the Town of Whitewater, SEWRPC, Walworth County Staff, and area land owners for their productive input into this planning process.

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## I. Introduction

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The South Whitewater Neighborhood Development Plan (SWNDP) has been prepared as a component of the City's master plan under Section 62.23, Wisconsin Statutes. The purpose of the SWNDP is to provide detailed recommendations for the arrangement of land uses, appropriate future zoning, private development design, transportation systems, and parks and open spaces within the planning area. The recommendations of the SWNDP are likely to be generalized and incorporated into the City's comprehensive plan, which the City must prepare and adopt by 2010 under current Wisconsin Statutes.

This detailed plan will provide a clear understanding of the City's overall expectations for the future development of the planning area, when and if land owners are ready to develop. In the event that certain land owners elect not to develop their land—e.g., continue farming—the City will support these endeavors and in no way intends to compel changes of land use in such cases. Future development projects should be generally consistent with the SWNDP; however, future development needs will change over time based on market demand. The City will also be open to considering improvements to the SWNDP as future private development proposals are brought forward. Subsequent detailed engineering, environmental studies, and market demand may necessitate change.

The SWNDP is an outgrowth and final update of the City's Quadrant Neighborhood Land Use Plans, adopted in 1996. The SWNDP is designed to provide land owners, developers, and public decision makers with a more precise and updated vision of the desired form, pattern, and location of future growth near the south edge of Whitewater than that 1996 plan allowed. The SWNDP was also informed by the City's Comprehensive Bikeway Plan (2000), Park & Open Space Plan Update (2008-2013), Whitewater University Technology Park: Feasibility Study and Strategic Implementation Recommendations (2008), Strategies for Retail Recruitment Report (2008), and recent plans for the other three quadrants of the City (East 1999, West 2004, North 2007). The Town of Whitewater Draft Comprehensive Plan also influenced the direction of this Plan. In instances where conflicts between the recommendations of the SWNDP and these other plans occur, the recommendations of the more current SWNDP take precedence in City decision making.

As part of the process to prepare the SWNDP, the City actively reached out for public, property owner, and Town of Whitewater input. While there were many informal contacts throughout the process, the following were the more formal input opportunities:

- Property Owner Interviews (also follow-up discussions) January 4, 2008
- Kick-off Public Meeting January 28, 2008
- Elkhorn Road Concepts Public Meetings April 7, May 5, 2008
- Concept Development Plan Public Meeting July 21, 2008
- Town of Whitewater Meetings 9/03/08, 1/07/09
- Draft Neighborhood Development Plan Public Hearings 3/16/09, 4/20/09

The City's public meetings were held before the Plan & Architectural Review Commission. Affected property owners and local governments were notified of all public meetings and hearings.







## II. Summary of Existing Conditions

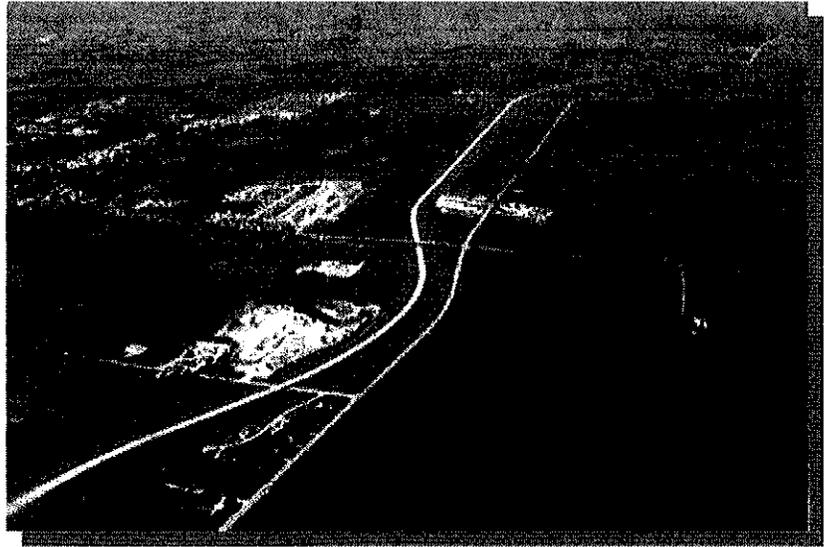
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### A. Location

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The SWNDP planning area encompasses roughly 2,500 acres on and beyond the south side of the City of Whitewater, extending into the Town of Whitewater. (Because of the impact on Town lands, Town officials and property owners were closely involved throughout the planning process.) The planning area generally extends from Cravath and Trippe Lakes out to the edges of the Sanitary Service Area (SSA) boundary, as prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). The northwestern and northeastern bounds of the planning area transition into, and in certain cases overlap with, the planning areas for the previously adopted West Whitewater Neighborhood Development Plan and the East Whitewater Neighborhood Development Plan.

The boundary of the planning area should not be understood as being exactly the same as the boundary of the area where the City anticipates future development to occur. Later sections of this SWNDP document will further address this distinction.



### B. Natural Features

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The planning area is relatively flat to gently undulating. A majority of the undeveloped lands are farmed and free of tree cover. There are few steep slopes. Large parts of the planning area are very poorly drained and reside in floodplains, wetlands, and hydric soils (soils formed under wet conditions that present challenges to building development). Environmental corridors consist of the layering of many of these natural features and soil limitations. Environmental corridors depicted on the Site Analysis and Development Plan maps that are part of this document also include isolated, landlocked uplands next to environmental limited land where their position renders them virtually inaccessible and unbuildable.

The Whitewater Creek, Spring Brook, and several smaller waterways cross the planning area and drain into Cravath and Trippe Lake to the north. Generally speaking, the western portion of the planning area drains into Cravath Lake, while the eastern portion drains into Trippe Lake. Spring Brook flows under the Highway 12 bypass near Highway 89. The Whitewater Creek crosses the Highway 12 bypass just south of Trippe Lake, through Wisconsin DNR properties and eventually connecting with Whitewater Lake and the regionally significant Kettle Moraine.

Lands surrounding Cravath Lake and Trippe Lake are predominantly within floodplains and wetlands. Through its Park and Open Space Plan, the City envisions a network of parks, open

spaces, and trails looping around the Trippe Lake, eventually connecting to Whitewater Lake via a trail underpass under the Highway 12 bypass.

East of Elkhorn Road and west of Howard Road are pockets of wetlands surrounded by farmland. The area immediately surrounding these wetlands is planned for a neighborhood park and stormwater management.

In the very southeast corner of the planning area, near Highway P, are an abundance of environmental corridors and hydric soils with minimal access. The higher ground in this area is mostly farmed.

Overall, nearly all the natural features that are illustrated on the Site Analysis map are based on SEWRPC or Walworth County data and have not been surveyed on site. The compiled data provides general regional information, and may not be completely accurate for specific development purposes. Site surveys will be required for detailed planning and development of individual sites within this planning area, which may result in changes to the currently mapped locations of environmental corridors.

### **C. Existing Land Use Pattern**

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A majority of the planning area is currently in agricultural production with few rural residences. Particularly for lands within the Town of Whitewater, some property owners have indicated their intent to continue farming for the foreseeable future.

The US Highway 12 bypass is a major highway providing quick connections to surrounding cities such as Fort Atkinson, Elkhorn, and Madison. This highway bisects the planning area. Together with natural resource features, the bypass helps define current and future land use opportunities. State highway plans designate the Highway 12 route between Madison and the Stateline as the “Lake Geneva Connector,” envisioned for upgrades through 2030.

Developed lands in and near the planning area are summarized as follows:

- Near the west side of the planning area, along Walworth Avenue, is Whitewater High School and the mainly single-family residential homes around it.
- At the intersection of State Highways 59 and 89, near the center of the planning area, is an existing small commercial area with a few surrounding residences.
- Just south of Cravath Lake and north of the bypass is an active quarry and electricity substation. Overhead transmission lines run from the substation through various stretches of the planning area. Both the quarry and substation area will likely remain for the foreseeable future.
- The Whitewater Town Hall, along with a few rural businesses and residences, are located between the bypass and Willis Ray Road. Further west along Willis Ray Road, closer to Highway 89, is a second cluster of rural housing.
- On the east side of the planning area, along Elkhorn, East Bluff, and Howard Roads, is a mix of commercial, multiple family residential, and single family residential land uses. A large portion of this area is newer development, or planned for near term development, under the East Whitewater Neighborhood Development Plan. A community-serving retail center, East Towne Market, is planned for the east side of the recently reconfigured roundabout intersection of Elkhorn and East Bluff Roads.

## D. Existing Transportation Facilities

---

The planning area is served by the following arterial and collector roads:

- The **U.S. Highway 12 bypass** is the most prominent transportation route in the planning area and runs east-west along the entire southern edge of the City. The bypass is currently a two-lane highway, but sufficient right-of-way has been acquired for the eventual expansion to a four lane divided freeway. Along the bypass corridor and in the planning area are three signalized, at-grade intersections serving as major entrances to the City: West Walworth Avenue/County Highway N; State Highway 89; and Elkhorn Road/State Highway 59/County Highway P. These are eventually planned to be converted to interchanges. In addition to the three intersections, there are four under and overpasses connecting the City with the rest of the planning area, but have no direct access to the bypass: Indian Mound Parkway (overpass), State Highway 59/South Janesville Street (underpass), South Franklin Street (underpass), Clover Valley Road/South Wisconsin Street (overpass). The Wisconsin Department of Transportation's draft Connections 2030 Long-Range Multimodal Transportation Plan identifies this highway as the Geneva Lakes System Level Priority Corridor. Long term plans for the entire segment of highway between the Wisconsin Dells and the Illinois state line include conversion to a freeway sometime between the years 2020 and 2030, if supported by environmental studies.
- **State Highway 89** is the main south-central entrance to the City. This north-south highway connects south to Interstate 43 at the Village of Darien, and runs north through Fort Atkinson and Lake Mills to Interstate 94.
- **Elkhorn Road/State Highway 59** serves as the main east entrance to Whitewater. Highway 59 also extends under Highway 12 bypass, running southwest through Milton to Interstate 90/39 and Janesville. To the northeast, Highway 59 runs through Palmyra, Waukesha, and eventually Milwaukee. The intersection of Highways 59 and 89 in Whitewater is scheduled for realignment to improve traffic flow and safety.
- **Indian Mound Parkway, South Franklin Street, and Clover Valley Road/South Wisconsin Street** are collector roads providing north-south connections from the south neighborhood planning area to the rest of the City.
- **Howard Road**—currently a lightly traveled, hilly rural road—serves as a north-south connection near the east edge of the planning area. Its function could change significantly over time to carry additional traffic, particularly if some or all of it is redesignated as a realigned route for Highway 59 in the future (see later recommendations in this document).
- **West Walworth Avenue/County Highway N** is a collector road that provides a prominent west entrance to the City, and the northwest corner of the planning area. This east-west connection links Interstate 90/39 to Whitewater, representing the fastest route to Madison.
- **Willis Ray Road** is a Town road that travels east-west through the southern part of the planning area. It connects Highway 89 in the western half of the planning area with County Highway P on the east side of the planning area. It will increasingly serve as an important south side collector road in the future.

There is also an emerging north-south multiuse path that presently terminates at the north edge of the planning area, in the City just west of Trippe Lake. The City desires to extend that path both along the south and east sides of Trippe Lake, and further south to Whitewater Lake through the planning area.







### **III. Objectives**

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The SWNDP is based on and reflects the following objectives. The objectives reflect the City's broad position towards future development and preservation in and affecting the SWNDP planning area. They also informed the more detailed land use, transportation and other recommendations and Development Plan map, which are featured in the final section of this document.

#### **A. Growth Management Objectives**

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1. Encourage orderly, planned, and phased growth within the planning area in accordance with growth projections and considering the opportunities for City growth in this and other quadrants of the City.
2. Plan for a mix of uses that complements, and does not jeopardize, development objectives and desired locations for different types of uses in other parts of the City, such as commercial and business park development.
3. Manage the rate and intensity of planned development to coincide with the City's ability to provide services and manage impacts.
4. Direct development away from environmental corridors and plan for new development that does not negatively impact the environment or other property owners.
5. Discourage premature development without public utilities within the SWNDP planning area and the City's Sanitary Sewer Service Area, as may be from time to time amended.
6. Work collaboratively with the Town and property owners to preserve farmland and limit non-farm development in those "Future Neighborhood Growth Areas" shown on the Development Plan map that are in the Town, until a reasonable amount of planned and available lands in and closer to the City are developed.
7. Pursue cooperation with the Town of Whitewater on issues such as municipal boundaries, farmland preservation, stormwater management, sewer and water services, and road maintenance.

#### **B. Development Mix and Arrangement**

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1. Provide attractive settings for housing, jobs, shopping, and recreation in appropriate locations.
2. Concentrate higher intensity commercial and technology development along Highway 12, particularly near at-grade intersections/future interchanges, and in high-visibility locations, recognizing that the market may not support such uses in all locations that have these characteristics.
3. Direct lower intensity, predominantly residential uses to areas that surround open space, where available, and to other areas that may be less attractive for non-residential development.
4. Use transportation and environmental corridor systems to provide appropriate breaks between different land use types and intensities.
5. Relate neighboring land uses to each other through integrated site planning, lighting and signage control, and interconnections for walking, biking, and driving.
6. Work cooperatively with the University of Wisconsin-Whitewater and affected property owners on the development of a University Technology Park within the planning area, as a center for

“next generation” job and tax base growth for the community. Pursue compatible commercial and housing development in the area of the Technology Park.

7. Work cooperatively with the Whitewater Country Club and area property owners on the possible future expansion of the Club, including potential club house, golf course, and/or related housing expansion.
8. Work to implement the recommendations of the Whitewater University Technology Park: Feasibility Study and Strategic Implementation Recommendations and Strategies for Retail Recruitment Report.

### **C. Community Design & Identity**

---

1. Assure that new development includes high-quality building, site, landscaping, signage, and lighting design (consistent with City ordinances), and fits within the context of a mid-sized, free-standing community, regardless of what community this land initially develops within.
2. Follow the unique development design standards for specific future land use areas shown on the Development Plan map, as presented and illustrated in the final section of this document.
3. Design new developments in a manner that respects the pedestrian as well as the automobile (e.g., separated walkways, road and sidewalk connections between developments).
4. Orient new development to adjoining open space without restricting public access or views to that open space.
5. Effectively provide and mark important approaches, transitions, and gateways to significant community features, such as the planned University Technology Park and the Walworth Avenue, Elkhorn Road, and Highway 89/59 entrances to the City.
6. Carefully consider the impact of pre-existing adjoining uses, such as farming, before approving new development within the planning area.

### **D. Transportation Connections**

---

1. Provide safe, convenient transportation connections for motorists, non-motorists, children, and adults between different parts of the planning area and to important community facilities and districts outside of the planning area.
2. Remain involved and advocate City positions with respect to future Highway 12 expansion and interchange development. Support recommendations described in the State’s Connections 2030 Long-Range Multi-Modal Transportation Plan to upgrade the highway from the Dells to the Illinois state line to a freeway in the future.
3. Support improvements to Highway 59, including short-term realignment with Highway 89 and the potential longer-term rerouting of Highway 59 to the Howard Road corridor area.
4. For planned local streets, emphasize access and connectivity over moving traffic quickly.
5. Plan for multiple road connections to all new subdivisions and other large developments in a manner that is consistent with the City’s subdivision ordinance.
6. Provide bike and pedestrian routes through environmental corridors and along neighborhood streets in accordance with the City’s Park and Open Space Plan, as may be amended from time to time.

7. Control driveway access onto arterial and collector streets. When such streets are built or reconstructed, consider traffic control features to control speeds and increase pedestrian and bicyclist safety, including pedestrian refuge medians, bulb-outs at intersections, and bike lanes.
8. Work to connect the City's multiuse path network around Trippe Lake, along Spring Brook, and to Whitewater Lake.

## **E. Open Space**

---

1. Protect environmental corridors and archeological resources, and recognize the opportunities and constraints that these features present for nearby development and recreation.
2. Recognize that environmental corridors depicted on maps in this Plan have been mapped from generalized sources, and that actual conditions may vary. Refine the boundaries of environmental corridors as development projects are proposed near these areas, with refinements based on actual site conditions.
3. Use environmental corridors to define the edges of development groupings, serve multiple natural and recreational functions (e.g., passive park sites), and enhance neighboring property.
4. Recognize that soil and bedrock conditions and location in the planning area may form constraints for the development that is anticipated by this Plan. Adjustments may be necessary based on more detailed soil and environmental studies at the time of development.
5. Promote the dedication and acquisition of park lands within and/or adjacent to natural areas, if consistent with the City's Park and Open Space Plan.
6. Encourage neighborhood and site designs that are sensitive to and help connect nearby environmental features, and recognize the potential impacts from and to nearby farming.
7. Work with the Town of Whitewater, Walworth County, property owners, and other interested parties on the long-term preservation of farmland and natural areas in mutually agreed areas.
8. Reserve low-lying areas for stormwater management basins, and develop stormwater systems in accordance with City stormwater management plans and ordinances.
9. Use low-impact street design techniques for roads crossing and adjacent to environmental corridors—such as narrower pavement widths—to minimize surface water pollution and runoff.



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## IV. Specific Recommendations

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The following recommendations are intended to expand upon the above objectives and the Development Plan map near the end of this document. The recommendations are divided into three categories: A) Transportation, B) Environment, Farming, and Recreation, and C) Land Development. Existing and planned roads and environmentally constrained lands establish a critical framework for the future land use pattern, which is why this information is presented first in this section.

The Development Plan map for the SWNDP, included at the end of this document, depicts several distinct future development groupings that will, in the future, be characterized by different land uses, mixes, and densities. These groupings are intended to be tied together by an interconnected road network and the area's open space system. The future road and trail network is also designed to provide appropriate connections to the rest of the City and region.

Within and near the area of the proposed University Technology Park, alternative road alignment options may be pursued. These are represented as Options A, B, and C at the end of this document. The options mainly differ on how future access from this area out to Highway 59 is achieved in the future. Interaction with the State Office of the Commissioner of Railroads and the rail operator for the planned rail crossing will be essential. Property owner preferences are also important.

### A. Transportation

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The Development Plan map at the end of this document depicts recommendations for highways, major streets, local streets, and bike and pedestrian routes based on land use, environmental constraints, and travel patterns. The City will attempt to work cooperatively with surrounding governments on future road alignments and maintenance. The City also may update its Official Map to reflect the major road recommendations within this Plan, once a preferred road option is selected for the proposed Technology Park area (see Options A-C later in Plan).

Specific development proposals and detailed traffic engineering may justify adjustments to the road plan, including slight changes to the arterial and collector road intersection points and changes in the shapes and alignments of roads. However, the following principles in road system and land use planning will be maintained:

- Public roads should respond to the surrounding land uses. Public rights-of-ways should be designed to standards that help reinforce desired travel speeds, serve the intended users of the street, and provide opportunities for pedestrian and bike travel.
- Public road connections should be made between parcels so that local traffic does not have to use major streets to travel between adjacent developments, business parks, and subdivisions.
- To assure access to all properties and integrate individual developments into the larger community, public roads should bisect deep properties, and cul-de-sacs should generally be avoided except where natural or human-made barriers (e.g., rail lines) justify their use.
- Where different categories of future land use are shown on either side of a planned road, any approved realignment of that road should consider the reconfiguration of future land use areas to maintain the same relationship with the road.

Key transportation recommendations in this Plan include the following:

- **An Indian Mound Parkway Extension**, potentially as far south as Highway 59 (see Options A or C). Not only would this extension serve as an important north-south City connection, but it would provide two entrances for the planned University Technology Park. If Options A or C is selected, this roadway is envisioned to connect to Highway 59 at a realigned Taylor Road. The recommended future road alignment for the section between the railroad tracks and Highway 59 would provide buildable sites on either side of Indian Mound Parkway. The realignment of Taylor Road to the suggested location should be evaluated for safety and traffic flow reasons.
- **An extension of a road from the CTH N/Warner Road intersection through the planned University Technology Park**, at the west edge of the planning area, to provide another access to the planned University Technology Park. This road could also extend all the way south to Highway 59, to the south of Taylor Road (see Option B). This would become particularly important if the Indian Mound Parkway connection to Highway 59 (or another connection even further north along Highway 19) cannot be achieved.
- **An intersection realignment for State Highways 59 and 89**. This planned intersection realignment will create a perpendicular configuration and improve the development potential on surrounding lands.
- **A South Street connection**, north of the bypass, as adjacent land develops. This will connect Elizabeth Street (near the High School) to South Janesville Street (Highway 89).
- **Elkhorn Road improvements**, when this planned commercial City gateway corridor undergoes development. The existing and planned intersections at Jake's Way, South Moraine View Parkway, and Cox Road may warrant additional roundabouts, similar to the Bluff Road intersection. For the purposes of efficient traffic circulation and safety, the streets extending from these intersections provide access to commercial sites and nearby neighborhoods. Limited or no new private driveway access will be permitted along Elkhorn Road from the bypass north to Bluff Road. Additional consideration for the desired character along this gateway Elkhorn Road corridor should be given, with respect to features like landscaping, lighting, signage, wayfinding, sidewalks, pedestrian connections, building placement, and setbacks.
- **A potential rerouting of Highway 59** to the Howard Road corridor, which is intended to serve multiple purposes. These include providing a more direct route to the Whitewater Business Park and future expansion areas and providing a more efficient route through Whitewater for through traffic. This idea is a modification of past City plans, which also suggested the rerouting of Highway 59, but along a somewhat different route. Obviously, substantial coordination with WisDOT and others will be necessary to accomplish this proposed rerouting.

## **B. Environment, Farming, and Recreation**

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The SWNDP seeks to create a connected network of open spaces consisting of undisturbed (or restored) natural areas and active recreational areas (parks) tied together with paths. In general, parks should be adjacent to environmental corridors to allow for both active and passive recreational opportunities within the same area and to provide an additional buffer between development and environmental corridors where possible. Overall, planned natural and recreational areas will help define the planning area as it develops in the future.

Key environmental, farmland, and recreational recommendations in this Plan include the following:

- **Refinement and protection of Environmental Corridors:** New private development should be discouraged in environmental corridors, as depicted on the Development Plan map, and is often very limited by zoning. Development types on adjacent lands should be limited to those which will not impair the resource, and should ideally be buffered from the edges through distance and vegetation. Generally appropriate uses within the environmental corridors include open space, non-structural recreational uses (like trails), stormwater management, and farming. Parks, golf clubs, and extremely low-density residential development at a density not to exceed one housing unit per five acres of upland corridor land may also be permitted within upland segments of the corridor. Lands shown as environmental corridors may be considered for more intensive uses if (a) detailed studies reveal that the characteristic(s) which resulted in their designation as environmental corridors is not actually present, (b) approvals from appropriate agencies are granted to alter a property so that the characteristic which resulted in its designation will no longer exist, or (c) a mapping error has been identified.



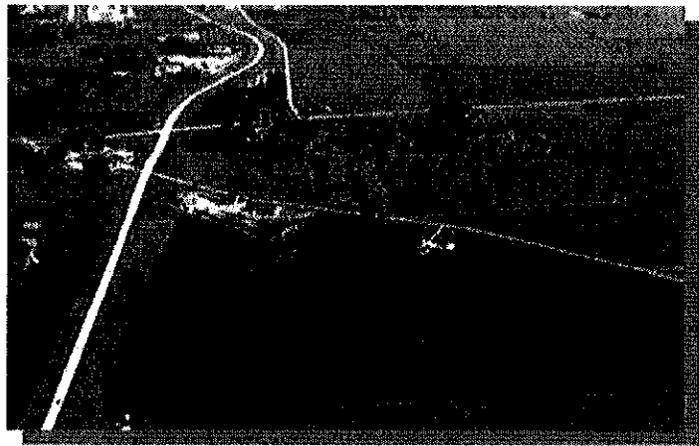
*Environmental Corridors provide areas for wildlife habitat, future trails, park space, and stormwater management - amenities for adjacent development and the entire City.*

- **Collaboration on farmland preservation:** Representatives from the Town of Whitewater and some land owners have expressed an interest in preserving farmland in and near the planning area. The City believes that a healthy farm economy has many benefits to the region. To this end, it supports and will help implement long-range farmland preservation in areas shown for future “Agricultural & Open Space Preservation” use on the Development Plan map, in part through limiting the non-farm development in these areas. In general, promoting compact urban development on sanitary sewer, water, and other urban services is a far more effective way to preserving farmland than allowing rural residential and commercial development, which often occurs at densities that are five or more times more land consumptive. Further, the City will phase development in planned “Future Neighborhood Growth Areas” on the Development Plan map that are not currently located in the City to correspond with property owner wishes and actual future land area needs for development.
- **Progressive erosion control and stormwater management:** To preserve surface water and groundwater resources, the City will practice progressive stormwater management techniques and require these techniques of private developers. Various techniques may be used to achieve this goal, including overland water transfer, requiring maximum impervious surface ratios for development sites, using natural landscaping, and installing site or regional detention basins. All development within the City should follow the City’s stormwater ordinance, unless waivers are obtained. The Development Plan map identifies conceptual areas for stormwater detention, based on an analysis of drainage patterns, the location of low points, and the typical amount of land required to manage runoff.

- **Implementation of the City's Park and Open Space Plan:** The Development Plan map depicts planned locations for future parks, usually in locations advised under the City's Park and Open Space Plan. A key recommendation of the City's Park and Open Space Plan, has, for several years, been the eventual development of a loop bicycle and pedestrian path around Trippe Lake and connections along the Spring Brook and to Whitewater Lake. The Off Road Multi-Use Trails shown on the Development Plan map generally reflect and elaborate on the recommendations of the City's Park and Open Space Plan in these areas.

As part of the Whitewater University Technology Park: Feasibility Study and Strategic Implementation Recommendations document, parkland has also been identified as a desirable component of the potential University Technology Park. One of the primary purposes of this parkland would be to serve employees of the businesses within the Technology Park, providing a place for recreation and relaxation. Such an amenity would also add to the overall quality of development in the Technology Park. However, because the park will not be located in a residential neighborhood, park acquisition and the construction of park improvements may not be fundable through the City's typical parkland dedication/fee requirements. Therefore, the City would have to pursue creative approaches to funding the acquisition and improvement of this park. Potential strategies include applying for funding through state and federal grants, soliciting donations from businesses, and/or using Tax Incremental Financing (TIF) dollars to help fund park improvements. If the park was oriented so that residents in adjacent neighborhoods could benefit from the park facilities, there may be an opportunity to pay for some park improvements through the City's park improvement fees. The City could also explore altering its subdivision ordinance to provide for parkland dedication and fees from non-residential subdivisions.

- **Collaboration on potential Golf Course expansion:** The Whitewater Country Club has considered potential acquisition in the area of the Club for expansion of the golf course, generally southwest of the Whitewater Country Club. Expansion of the golf course could assist the City with other community development objectives, including the development of the nearby planned University Technology Park. The potential future golf course expansion should respect the surrounding environmental corridors. There may also be an opportunity to combine golf course expansion with new housing development to create a golf course community. Clubhouse expansion has also been considered.



*The proposed University Technology Park is in the foreground, with the Whitewater Country Club near the center of the photo*

## C. Land Development

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The Development Plan map presents a relatively diverse future land use pattern, accommodating a mix of different future land uses and densities. Except for within "Agricultural & Open Space Preservation" areas depicted on this map, all future development in the planning area is intended to

be served with municipal sewer and water services. The City will work with the Town and Counties to prevent large-scale, premature development projects in the planning area that are not so served.

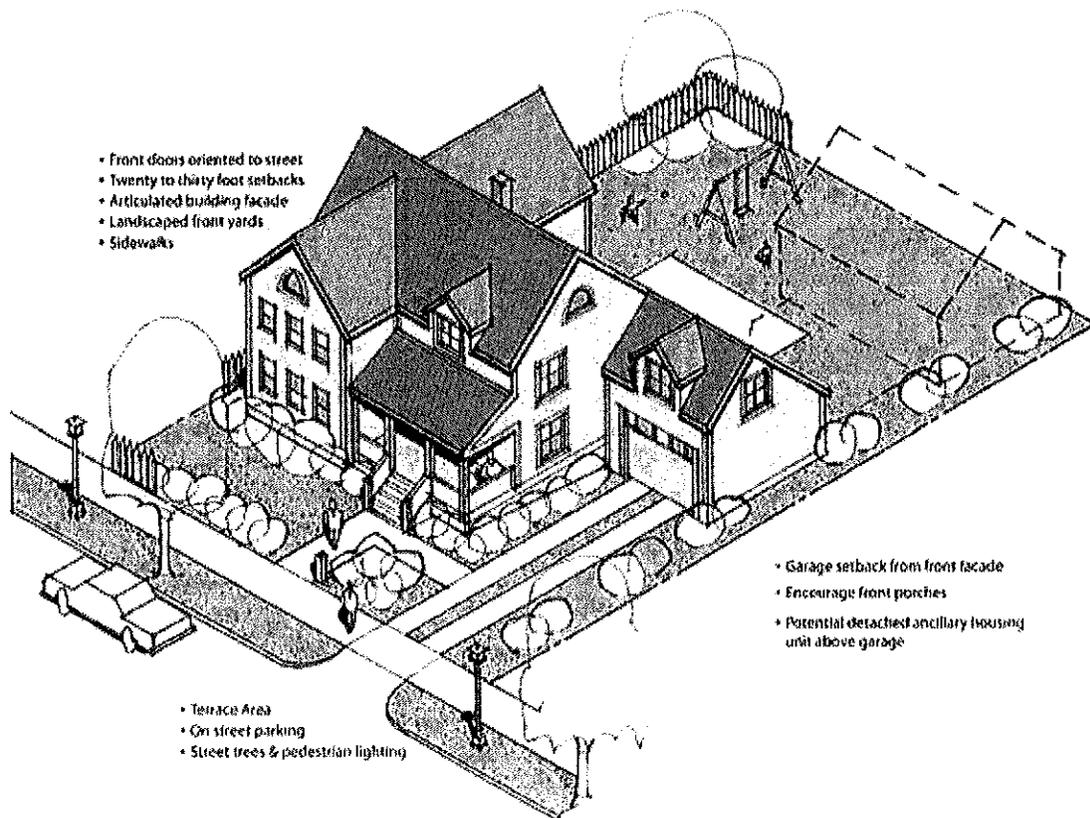
The following text provides additional detail on the recommended character, density, and design of the major future land use categories listed and depicted on the Development Plan map.

### 1. Single Family Residential

The Single Family Residential future land use category is intended to accommodate mostly single family housing, but will also allow for some two family homes to be integrated into areas identified on the Development Plan map within this category. The Development Plan map features a couple of areas planned for future Single Family Residential land use, particularly east of the High School.

Planned Single Family Residential areas have been laid out on the Development Plan map to include interconnected roads, sidewalks, and neighborhood parks and open spaces. The City intends to promote building styles that provide a high-quality living environment and foster neighborhood interaction. To accomplish this, houses should be oriented toward the street; housing design and color diversity will be promoted; and building facades should be articulated through the use of various design elements such as porches, dormers, gables, chimneys, and ample window openings. “Thrust” garages for single family house should generally be avoided. Garages should ideally be recessed from the front façade of the house, side-loaded, or detached and located behind the house. The garage should not dominate the front façade of the house.

#### Example of Single Family Residential Design & Character



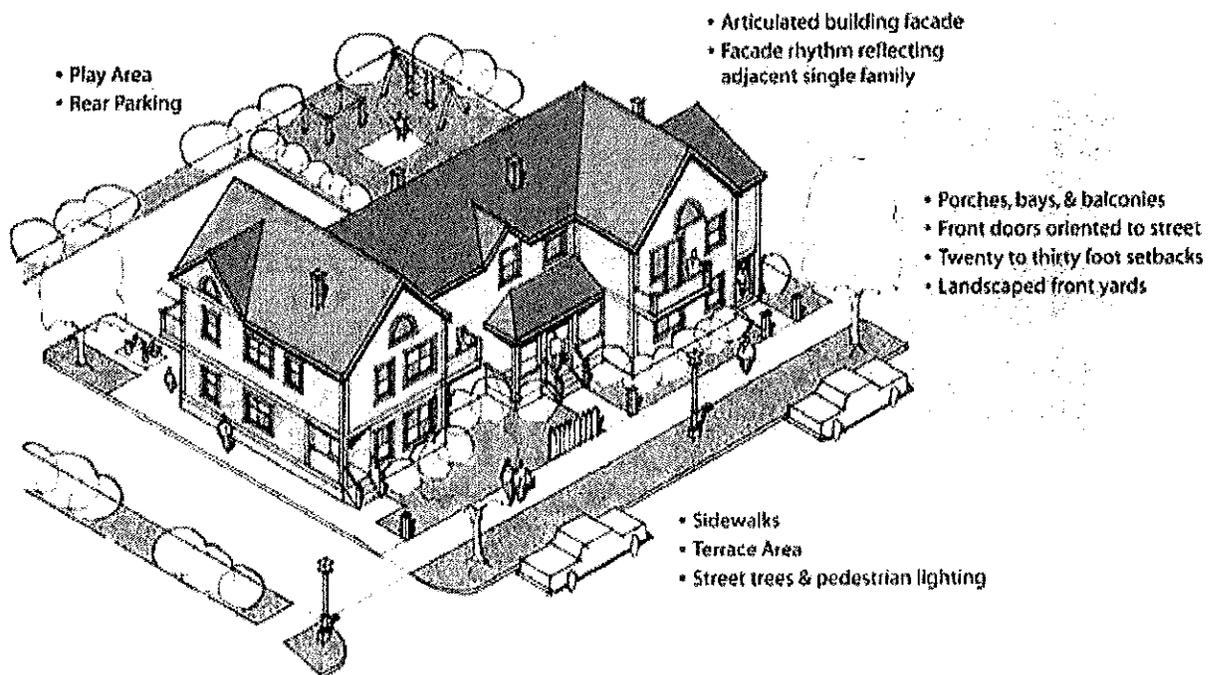
The Single Family Residential future land use category also encompasses the mobile home park located along County Line Road in Rock County. The park is currently served by a large private septic system. Over time, the City may work with the owner and the Town of Lima, on future improvements to the mobile home park, including the extension of municipal services to this area.

Existing City zoning districts appropriate for this future land use category are R-1 or R-1X One Family Residence Districts. The R-2 One and Two Family Residence district or even PCD zoning may also be appropriate where smaller lot sizes are desired, or where duplexes may be considered.

## 2. Mixed Residential

Future Mixed Residential areas are designed to accommodate a diversity of housing options for residents of the City. Appropriate residential uses for Mixed Residential areas include both two-family and multiple family residences (i.e., townhouses, duplexes, condominiums, and apartments), along with limited single family residences. Mixed Residential areas are also appropriate for retirement or elderly care communities that may or may not include associated medical and/or other service facilities. In general, future Mixed Residential areas are shown on the Development Plan map to be located near major street intersections and commercial areas. Areas of Mixed Residential land uses have been well dispersed throughout the planning area so as to avoid large concentrations of this type of development in one place and to accommodate a variety of housing needs in all parts of the community.

### Example of Mixed Residential Design & Character



The main areas planned exclusively for Mixed Residential development are described in greater detail below:

- **North of the bypass and east of Clover Valley Road:** This area will be interconnected with the Water's Edge neighborhood to the north and will serve as a transition between the bypass

and this neighborhood. Noise issues and development site limitations will provide challenges to the development of this area.

- **Near Elkhorn Road:** This area will be appropriate for condominiums, apartments, and townhomes. It will provide a transition between the more intense commercial uses along Elkhorn Road and lower density neighborhoods. On the west side of Elkhorn Road, the planned Mixed Residential use area will compliment the adjacent Villages at Trippe Lake condominiums while capitalizing on the amenities of Trippe Lake. Also, by providing a variety of residential homes and greater density within this corridor, the opportunity for linking with walkable destinations (e.g., parks, shopping) is more viable.

Mixed Residential areas should generally be zoned R-3 Multifamily Residence District or the PCD Planned Community Development district. In addition, the following design guidelines should generally be applied within the Mixed Residential areas:

- a. Incorporate architectural designs that fit the context of the surrounding neighborhood. Encourage layouts where buildings appear as a grouping of smaller residences.
- b. Promote the use of brick and other natural materials as components of building facades.
- c. Avoid monotonous facades and box-like buildings. Incorporate balconies, porches, garden walls, varied building and facade setbacks, varied roof designs, and bay windows.
- d. Orient buildings to the street with modest front yard setbacks, bringing street-oriented entries close to public sidewalks to increase pedestrian activity. Include private sidewalk connections.
- e. Locate dumpsters and other unattractive uses behind buildings and/or screen them with materials that match the building.
- f. For parking lots and garages, generally promote the following: (1) locate garage doors and parking lots so they are not the dominant visual element; (2) buffer parking areas from public view; (3) break up large parking lots with landscaped islands and similar features; (4) provide direct links to building entrances by pedestrian walkways that are physically separated from vehicular movement areas; (5) large, prominent parking garages are undesirable, but where necessary, break up facades with foundation landscaping, varied facade setbacks, and recessed garage doors.
- g. Provide on-site recreational and open space areas to serve the needs of residents.
- h. Provide generous landscaping that is of sufficient size at time of planting. Emphasize landscaping in the following areas: (1) along all public and private street frontages; (2) along the perimeter of all paved areas and in islands in larger parking lots; (3) along all building foundations; (4) along yards separating land uses that differ in intensity, density or character; (5) around all outdoor storage areas such as trash receptacles and recycling bins (also include screening walls in these areas); (6) around all utility structures or mechanical structures visible from public streets or less intensive land uses.

### 3. Planned Mixed Use

The Planned Mixed Use future land use category allows for a carefully controlled mix of commercial, office, "Mixed Residential", and/or institutional uses, potentially including opportunities for limited single family residential use as well. As its name implies, this category is intended to allow a wider variety of land use types, and relationships between those uses, than might otherwise occur under a single-use category. However, given this flexibility, development approvals within these areas should only be granted after submittal and public review of unified, high-quality,

detailed development plans. If Planned Mixed Use areas are developed in phases, the individual phases should be planned and presented to the City with consideration of the entire area.

Site layouts, development scale, and building groupings should reflect appropriate relationships between the different land uses occupying the site. When properly conceived, a Planned Mixed Use area will allow any residents of the area to comfortably walk to work or shopping. Adequate recreational space should be built into residential components of these projects, either on-site or within walking distance. Development should meet the design guidelines applicable to Mixed Residential and Commercial future land use areas, as appropriate, and refer to the design ideas depicted in the following graphic.

The City will generally promote the use of PCD Planned Community Development zoning for these areas allow for the development of unique spaces.

### **Examples of Planned Mixed Use Development Appropriate to Whitewater**



#### 4. Community Commercial and Highway Commercial

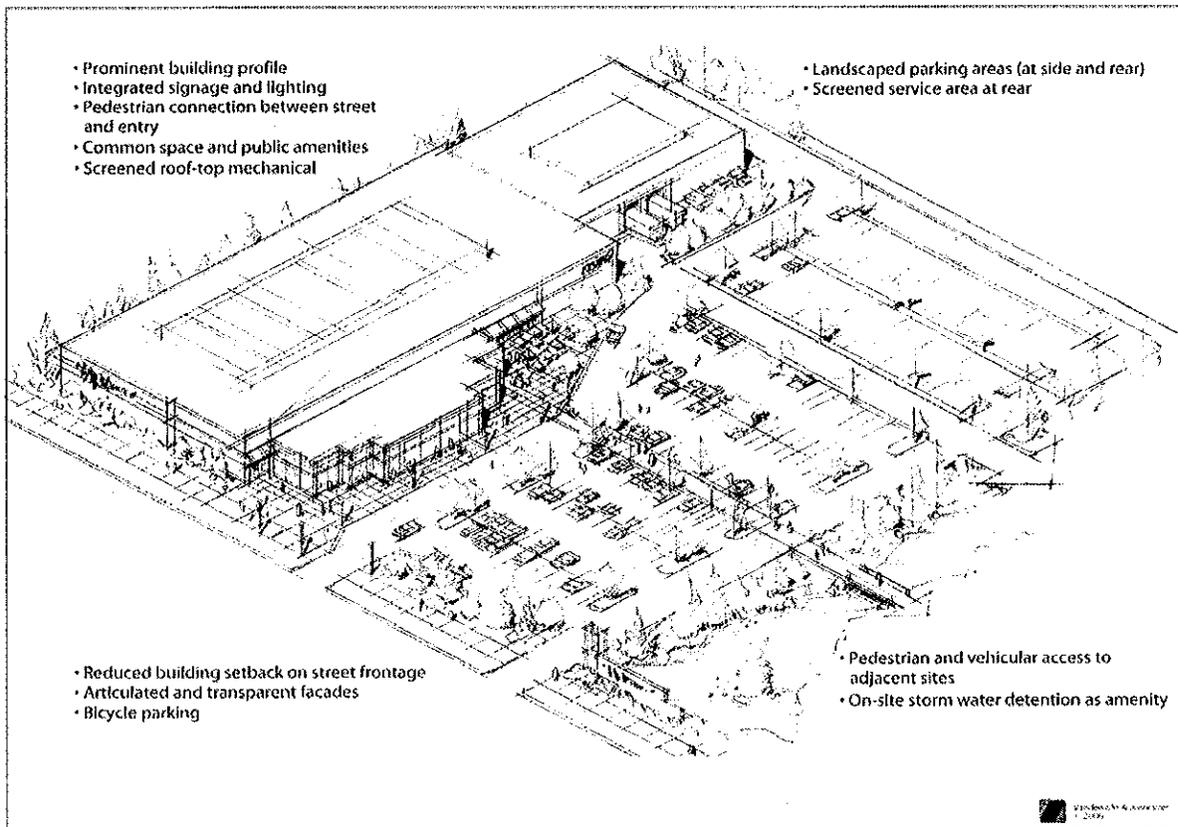
The Development Plan map utilizes two different future commercial land use categories to represent different desired future characters of commercial uses in different areas.

The Community Commercial future land use category is intended to accommodate a variety of indoor business and office uses intended to serve the entire community and greater region. These include uses such as retail stores, restaurants, office buildings, financial institutions, grocery stores, and other similar uses. The City's B-1 Community Commercial Zoning District, or PCD zoning, are generally most appropriate for planned Community Commercial areas.

As shown on the Development Plan map, Community Commercial use areas are planned in the following areas:

- **Elkhorn Road Community Commercial Corridor:** This corridor provides opportunities for multiple large-scale retail and ancillary service and restaurant uses serving a local and regional market. The scale and type of uses might be similar to those currently found on West Main Street. Primary visibility and regional access will be provided via the bypass intersection at Elkhorn Road/Highway 59. Good design is critical with such large-scale projects; the following example provides basic guidance for larger-scale projects in the Elkhorn Road Corridor.

#### Example of Community Commercial Design Along the Elkhorn Road Corridor

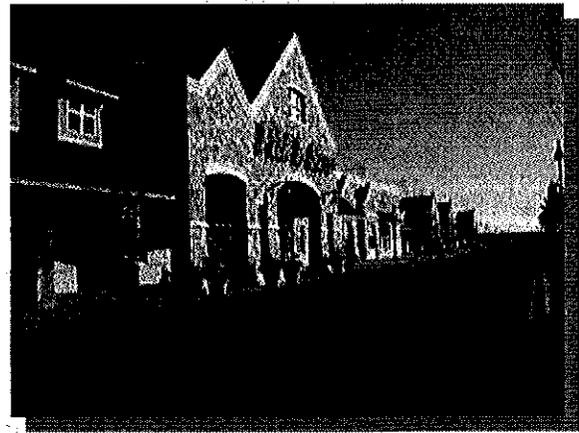


- **Highway 12/Walworth Avenue Community Commercial Site:** This second planned Community Commercial site, as illustrated on the Development Plan map, gains access from the bypass interchange at Walworth Avenue and enjoys a long stretch of frontage along the bypass. The site provides opportunities to serve the local community, the potential University Technology Park, and to a limited extent the traveling public. Full auto access into the site will be via Indian Mound Parkway, with perhaps a right-in, right-out only access closer to the bypass along Walworth Avenue. Given the single family housing in close proximity and the relatively small site area, the range and scale of potential future commercial uses will be somewhat limited. Desirable future uses in this Walworth Avenue Community Commercial location include a grocery store, sit down restaurant, financial institution, office building, and other commercial uses that are compatible with a location close to a single family neighborhood and a Technology Park. Maximum square footage allocated to any single commercial use should not exceed 70,000 square feet, which is around the floor area of a moderately-sized supermarket, and maximum building height along Walworth Avenue across from pre-existing residential uses should be 2½ stories. City development approvals should be considered only after informal neighborhood meetings on any proposed project are held.

#### Examples of Community Commercial Design at Walworth Avenue Site



*For along Walworth Avenue*



*For deeper (further south) on the site*

The Highway Commercial future land use category is designed for retail and commercial service uses focusing on highway travelers and the regional population, but also serving community residents. Most of these uses will be auto-oriented, such as gas stations, convenience stores, and fast-food restaurants. The noise and traffic impacts of such businesses suggest that they be located away from less intensive uses, such as single family neighborhoods. The Development Plan map identifies planned Highway Commercial sites around the Highway 12/Elkhorn Road interchange, along the Highway 59 corridor, and on the south side of the County Highway N/ Warner Road intersection. The City's B-1, B-3 Highway Commercial and Light Industrial District, or PCD zoning may all be appropriate for these areas.

Community Commercial and Highway Commercial areas are planned along gateways into Whitewater. Their overall design and site layout should reflect this high profile. The following design guidelines should generally be applied in the development of these areas:

- a. High quality landscaping treatment of bufferyards, street frontages, paved areas and building foundations.
- b. Intensive activity areas such as building entrances, service and loading areas, parking lots, and trash receptacle storage areas oriented away from less intensive land uses.
- c. Parking lots heavily landscaped with perimeter landscaping and/or landscaped islands to buffer views from streets and residential uses.
- d. Parking to the sides and rear of buildings, rather than having all parking in the front.
- e. Signage that is high quality and not excessive in height or total square footage. Monument signs are the preferred type of ground signs.
- f. Location of loading docks, dumpsters, mechanical equipment, and outdoor storage areas behind buildings and away from less intensive land uses.
- g. Screening of loading docks, dumpsters, mechanical equipment, and outdoor storage areas through use of landscaping, walls, and architectural features.
- h. Limited number of access drives along arterial and collector streets.
- i. Safe, convenient, and separated pedestrian and bicycle access to the site, from the parking areas to the buildings, and to adjacent commercial developments.
- j. Illumination from lighting kept on site through use of cut-off luminaries.
- k. High quality building materials, such as brick, wood, stone, and tinted masonry, with a de-emphasis on corporate franchise architecture.
- l. Low reflectant, solid earthtone, and neutral building colors.
- m. Canopies, awnings, trellises, bays, windows and other architectural details to add visual interest to facades.
- n. Variations in building height and roof line, including parapets, multi-planed, and pitched roofs and staggered building facades (variations in wall depth and/or direction).
- o. Materials on all building facades of similar quality as the front building façade, except where non-front façades have low public visibility or are aggressively screened.
- p. Central features which add to community character, such as patios and benches.