



Common Council Meeting

Whitewater Municipal Building Community Room,
312 West Whitewater St., Whitewater, WI 53190
*In Person and Virtual

Tuesday, September 19, 2023 - 6:30 PM

MINUTES

CALL TO ORDER

The meeting was called to order by President Allen at 6:30 PM.

ROLL CALL

PRESENT

Council President Jim Allen
Councilmember Brienne Brown
Councilmember Lisa Dawsey Smith
Councilmember Jill Gerber
Councilmember Neil Hicks
Councilmember Lukas Schreiber
Councilmember David Stone
Attorney Jonathan McDonell
City Manager John Weidl
Public Works Director Brad Marquardt
City Clerk Karri Anderberg

APPROVAL OF AGENDA

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to approve the agenda.
Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith,
Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Motion made by Councilmember Stone, Seconded by Councilmember Dawsey Smith to remove
Ordinance 2063 ordinance amending Chapter 11.16.15, adding No Stopping, Standing or Parking on east
side of Elizabeth Street at Court Street and Laurel Street and postpone until October 3, 2023.
Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith,
Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

CONSENT AGENDA

Councilmember Hicks stated that there is a double vote in the Police and Fire Commission Minutes and
asked that they be corrected.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to approve the
consent agenda.
Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith,

Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

1. Approval of Special Common Council - July 13, 2023
2. Approval of Special Common Council - August 21, 2023
3. Public Works minutes August 8, 2023
4. Police and Fire Commission Minutes from May 10, 2023
5. August 2023 Financials

CITY MANAGER REPORT

City Manager Weidl gave his bi-monthly update of City events and accomplishments, including reports from the following departments: Public Works, IT, Neighborhood Services, Library, Parks and Recreation, Police, and Human Resources

STAFF REPORTS

6. Update with Bird Scooter representative- Hicks/Public Works

Caitlin Goodspeed from Bird Scooter - Ms. Goodspeed is the City representative for Bird Scooter updated the Council on the City's Bird Scooter contract. Ms. Goodspeed gave the year-to-date data for the bird scooters in the City of Whitewater. Ms. Goodspeed also gave an update on where the scooters should be parked when residents are done with them and how to reach out to Bird Scooter if there is a complaint.

Councilmember Gerber asked for Bird to forward data related to complaints received from citizens to her.

Councilmembers asked questions.

7. Police Statistics Report - Gerber/PD

Police Chief Meyer gave an update on the City's police Statistics. Chief Meyer went over DUI, traffic stops, mutual aid requests, truancy numbers, proactive enforcement, and possible solutions to all the hardships that are in the police department. Councilmembers asked questions.

8. Geese control on the lakes- Dawsey Smith/Park and Rec

Interim Park and Rec Director Michelle Dujardin gave an update on how the City of Whitewater controls the geese on both Cravath and Tripp Lakes.

HEARING OF CITIZEN COMMENTS

Jeff Knight - Wanted to thank the staff, city council, and all volunteers who helped put together a great community 5k. He stated that there were 465 registered participants from 9 different states. Mr. Knight stated that they are already planning for next year.

ORDINANCES

First Reading

9. Ordinance 2070 an Ordinance amending Section 19.51.180 Truck Trailer, Mobile Home and Equipment Parking Restrictions - Public Works

Public Works Director Bard Marquardt stated that this ordinance comes from the Public Works Committee. The Committee wanted to amend the ordinance to match Chapter 20 which is currently on a second read. Councilmembers asked questions. Council President Allen stated that this comes from complaints received about campers being parked in people's side yards.

Motion made by Council President Allen, Seconded by Councilmember Schreiber to approve first reading of Ordinance 2070.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached.

Second Reading**10. Ordinance 2062 an ordinance amending changes to portions of the zoning code dealing with code enforcement, building standards, and penalties. Neighborhood Services**

Alison Schwark from Municipal Code Enforcement stated that no changes had been made since the last reading.

Motion made by Councilmember Hicks, Seconded by Councilmember Schreiber to approve pending removal of the side yard wording in section B on page 6 of the ordinance.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached

11. Ordinance 2063 Ordinance amending Chapter 11.16.15, adding No Stopping, Standing or Parking on east side of Elizabeth Street at Court Street and Laurel Street. Public works

Ordinance 2063 was postponed until October 3, 2023.

12. Ordinance 2065 an ordinance creating chapter 5.39 licensing of short-term rentals Dawsey Smith/Neighborhood Services

City Manager Weidl stated that the City got a letter from a resident asking for changes to the ordinance. Allison Schwark from Municipal Code Enforcement asked that this ordinance be postponed until she has a chance to look over the ordinance and suggest changes.

Jamie Coats – Mr. Coats sent a letter to the City Manager on the Ordinance 2065 and Clerk Anderberg read it into the record. – “We bought our residence at 253 N. Fremont St. as an investment property and a place for us to hang out in the summer. What we are offering is a place in our community for people to stay while visiting, attending sporting events, and enjoying the great downtown Whitewater. We adore this community, we know people will spend money here, we offer a solution for the problem we have of short-term rentals or hotels.

After reading the proposal brought forth tonight for approval, I found a few discrepancies that need to be addressed and some softening of the language so that this can be a “win/win” for everyone. First of all, 1 – 3, Residential Dwelling unit as one or more rooms with provisions for living, cooking, sanitary and sleeping facilities and a bathroom arranged for exclusive use by one or one family. Is this not a definition of a hotel or motel? Sec. 1-8 describes a short-term rental and refers as defined by the Wis. Statute

66.061(1) (dk), however, that statute actually states; “Short - term rental” means a residential dwelling that is offered for rent for a fee and for fewer than 30 days. It does not state less than 7 days. So, 2-a states that “no residential dwelling unit may be rented for a period of six or fewer days should be voided.

Finally, I oppose the requirement that the owner or property manager live within 25 miles. We have built a large, qualified vendor list to respond as quickly as needed. This has nothing to do with proximity distance. For example, this statement says if I am out for dinner or on vacation I will not respond and be subject to fines or revocation. We pride ourselves in responding within 6 minutes of any call”.

Andrew Crone- 5090 E Wildwood Road- Mr. Crone feels that Ordinance 2065 will drive people away and will limit short-term rentals in the City of Whitewater.

Doug Anderson- 311 South Woodland Drive - Rents out 2 rooms and a bathroom to individuals who are coming through town. If Ordinance 2065 is passed it will force him to go out of business.

Gloria Buley - Owner of the Hamilton House Bed and Breakfast – Ms. Buley wants to see a short-term rental ordinance to make it an equal playing field between her and short-term rentals.

Councilmember Gerber would like a letter sent out to short-term rental owners letting them know of the Ordinance.

Councilmembers asked questions.

Councilmember Dawsey Smith – Stated that short-term rentals are silent in the code and it needs to be addressed in the zoning code and whether the body is going to allow short-term rentals in certain zoning districts. Also, would like to see the occupancy standards be addressed in the ordinance in regards to short-term rentals. Dawsey Smith is concerned with the City having limited single-family homes for sale investment companies will come in and buy up single-family homes and turn them into short-term rentals.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to bring back Ordinance 2065 for a first reading on October 17.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached

13. Ordinance 2066 an ordinance creating chapter 5.85 Convenient Cash Businesses - Allen/City Clerk

Council President Allen asked if the City could limit cash businesses to a certain part of town. City Manager Weidl stated that the request is being worked on and will come to the council at a later meeting.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to approve ordinance 2066.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached.

14. Ordinance 2067 and ordinance revising Chapter 1.28 right of entry for inspection-Neighborhood Services

Allison Schwark from Municipal Code Enforcement explained that update to the ordinance since the first reading. Allison stated that she changed the ordinance to read "Staff may only enter under 24 hours' notice if exigent circumstances exist".

Councilmember Hicks stated he did not like the wording and would like to see it better defined in the code.

Chief Meyer stated that he is the one who suggested exigent circumstances and the definition of exigent circumstances is an emergency requiring swift action to prevent imminent danger to life or serious damage to property or to force all the imminent escape of a suspect or destruction of evidence.

Motion made by Councilmember Hicks, Seconded by Councilmember Schreiber to approve Ordinance 2067 by changing the word exigent circumstances to the definition that Chief Meyer read into the record.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached.

15. Ordinance 2068 an ordinance revision of chapter 8.12 Filth-Neighborhood Services

Allison Schwark from Municipal Code Enforcement stated there were no changes made from the last reading.

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to approve Ordinance 2068.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached

16. Ordinance 2069 an ordinance revision of chapter 14.05 building and maintenance code and dwelling standards-Neighborhood Services

Allison Schwark from Municipal Code Enforcement stated there were no changes made from the last reading.

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to approve Ordinance 2069.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

See the Ordinance attached

CONSIDERATIONS

17. Discussion and possible action regarding Lakes meeting - Park and Rec

Interim Park and Rec Director Michelle Dujardin stated that the City had a Meeting on August 26, 2023, that involved Heidi Bunk with the DNR. The top 6 things that came from the meeting were

1. Lake tour and goal discussion. DNR agreed to bring 2 boats to the City of Whitewater, Interim Director Dujardin, City Manager Weidl, and 2 Councilmembers will go out on the water and do a tour. The dates available are October 16 or Oct 19 at 11:00 a.m. starting at Carvath Lake and moving to Tripp.
 2. Chemical treatments within the lake- The City is looking into the options for chemical treatments within the lakes.
 3. Bringing forward an expert - The City has contacted a hydrologist and is working with him to come up with a plan.
 4. Burns - The former Parks and Rec Director was working with a certified burn boss and the City will continue to work with him on all options regarding the lakes.
 5. Benchmarks on the lakes - The DNR has shared a link with the City where anyone can go and see any lake and see what the permits are, what they have done, and where they have harvested.
 6. Creating a Lakes District - Interim Park and Rec Director Michelle Dujardin has been talking with the Whitewater Lake chairman and working with him to get a lake district started in the City of Whitewater.
- Motion made by Councilmember Stone, Seconded by Councilmember Hicks to nominate Councilmember Gerber and Council President Allen to go on the boat tour with the DNR and Staff.
- Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone
- Councilmember Dawsey Smith asked that the City not lose sight of the maintenance on the lake that needs to be done.
- Councilmember Gerber asked for 4 goals - 1. Balanced Ecosystem 2. Promotion of fish and wildlife habitat 3. Maintaining the water quality 4. Cost efficiency

18. Discussion and possible action regarding Twin Oaks mobile home annual permit -City Clerk/Neighborhood Services

Clerk Anderberg - explained that neighborhood services went out and originally found 80 code violations and Twin Oaks is compliant with all 80 code violations at this time.

Councilmember Hicks asked if Twin Oaks has complied with Police and Fire. City Manager Weidl stated that they were and the only thing holding up the permit was the 80 code violations.

Motion made by Councilmember Hicks, Seconded by Councilmember Schreiber to approve the Twin Oaks Mobile Home Annual Permit.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

19. Discussion and possible action regarding LEA Grant Request - PD

Police Chief Meyer went over the Grant Request. The request is to purchase cameras from Flock Safety. Chief Meyer stated that there would be three fixed cameras that would take still photos of vehicles and license plates that pass by the camera. The purchase would include a two-year service contract and includes installation and maintenance of the cameras. The total cost for the 2-year contract would be \$19,950. Available funds for the grant are \$18,399 leaving a balance of \$1,611.

Amy Cornell from Flock Safety - went over the details of the contract.

Councilmembers asked questions regarding the cameras.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Brown to approve the LEA grant request.

Voting Yes: Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Voting Nay: Council President Allen

20. Discussion and possible action regarding Johns Disposal rate increase request for 2024 - Public works

Public Works Director Bard Marquardt stated John's Disposal submitted a request for a rate increase of \$0.25 for garbage, \$0.12 for recycling, and \$0.06 for bulk items for a total of \$0.43 per unit monthly increase. The request matches the CPI. The Public Works Committee recommended approval of the increase which will total the City of Whitewater just under \$14,000.00 for 2024.

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to approve John's Disposal rate increase.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

21. Discussion and possible action regarding water use credit policy - Public Works

Public Works Director Brad Marquardt explained that this policy is current practice. Currently, residents get credit for pool fill, watering for installation of new lawns, watering during the summer months, and then miscellaneous instances that are spelled out in the policy.

Motion made by Councilmember Hicks, Seconded by Councilmember Schreiber to approve the water credit policy.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Motion made by Councilmember Stone, Seconded by Councilmember Dawsey Smith to include watering of landscaping in the policy.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

22. Discussion and possible action regarding Amendment No. 1 to Strand Task Order No. 23-04 for Construction Related Services for the North Side Water Main Extension - Public Works

Public Works Director Brad Marquardt went over the Strand task order. The Public Works Committee recommended approval.

Councilmembers asked questions about the task orders. Councilmembers asking going forward that staff estimate the task orders up front so when approving the project the City knows what is coming.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to approve Strand Task Order No. 23-04

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

23. Discussion and possible action regarding City Manager budget goals - Gerber/City Manager

City Manager Weidl asked Councilmembers to look at the former City Manager's goals and pick out the ones the City should be carrying forward.

Councilmember Hicks- Would like to see the City Gala event move forward. This would be in addition to the luncheon for the City employees.

Councilmember Gerber - Would like to keep the goal of overseeing the successful completion of 90% or more of all department goals.

Police Chief Meyer, Fire Chief Freeman, City Clerk Anderberg, CDA Administrative Assistant Miller, and HR Director Marquardt all spoke in favor of City Manager Weidl and his current goals and the positive way the City is moving forward

24. Councilmember Requests for Future Agenda Items or Committee items. Questions

Councilmember Dawsey Smith - creating a subcommittee for lakes management.

Councilmember Brown-Look into the bicycle and pedestrian committee. Was it disbanded? If not would like to see it back up and running.

ADJOURNMENT

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber. Motion passed by voice vote.

The meeting adjourned at 9:06 p.m.

ORDINANCE No. 2070
AN ORDINANCE AMENDING SUBSECTION 19.51.180
TRUCK, TRAILER, MOBILE HOME AND EQUIPMENT PARKING RESTRICTIONS

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

SECTION 1. Whitewater Municipal Code Chapter 19.51 Subsection 19.51.180 is hereby amended to read:

No truck, commercial trailer, house or camper trailer, motor home, boat trailer, trailers for all terrain vehicles (ATVs) or snowmobiles, or other vehicular equipment or implements of a commercial, agricultural or industrial nature, shall be parked regularly in any zoning district other than B-1, B-3, M-1 and AT districts, except as hereinafter specifically provided for as follows:

- A. One panel or pickup truck, exceeding three-quarter ton but not exceeding one and one-half tons, shall be permitted;
- B. The unenclosed parking of either one unoccupied house trailer, motor home, or one unoccupied camp trailer in the rear yard on a hard surface, provided that the motor home, house trailer or camp trailer is parked at least five feet from the lot lines; motor homes shall also abide by all restrictions relating to motor vehicle parking;
- C. Camper trailers and boats shall be permitted to park in front yards for the purposes of loading, unloading and servicing for a period of three days;
- D. Boat trailers, trailers for all terrain vehicles (ATVs) or snowmobiles, and all other private residential-type trailers shall be permitted to park in the rear yard only on a hard surface.
- E. The neighborhood services manager may issue a permit to a person with a disability allowing a boat (twenty-five feet or less in length) and a boat trailer to be parked in the front yard driveway of their residence from April through November. A person shall be considered a person with a disability if they have been issued a current disabled parking identification permit by the Wisconsin Department of Transportation. In addition, an individual shall be considered a person with a disability if they provide the neighborhood services manager with a statement by a health care specialist verifying that the party needs a front yard boat parking permit, for a stated period of time, to allow that person reasonable access to their boat and trailer.

Ordinance introduced by Council Member Dawsey Smith, who moved its adoption.

Seconded by Council Member Schreiber.

AYES: Allen, Brown, Dawsey Smith, Hicks, Gerber, Stone, Schreiber

NOES:

ABSENT:

ADOPTED: October 3, 2023

John Weidl, City Manager

Karri Anderberg, City Clerk

ORDINANCE NO. 2062
AN ORDINANCE CREATING TITLE 20 PROPERTY MAINTENANCE

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

SECTION 1. Whitewater Municipal Code Title 20 is hereby created to read as follows:

A. INTENT, PURPOSES.

- (1) **Intent.** This Chapter is adopted to preserve and promote the public health, safety, morals, comfort, convenience, prosperity and general welfare of the people of the City and its environs, including, but not limited to, physical, aesthetic, and monetary values. The establishment and enforcement of minimum standards of habitation and property conservation is necessary to preserve and promote the private and public interest.
- (2) **Purpose.** The purpose of this Chapter is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and non-residential buildings, structures, yards and vacant areas by adopting minimum standards. Attractive and well-maintained property will enhance the neighborhood and the City as a whole by maintaining physical, aesthetic and monetary values. With respect to rental housing, it is necessary to adopt minimum regulations regarding human habitation to protect the health, safety, and general welfare of tenants within the City.

B. APPLICABILITY.

- (1) **General.** The provisions of this Chapter shall apply to all properties and buildings within the City and its jurisdiction.

C. GENERAL MAINTENANCE REQUIRED; DEFINITION.

- (1) The exterior of all properties and premises including the open space of the property or premises shall be maintained in a clean, safe and sanitary condition, free from accumulation of any combustible or non-combustible materials, debris and refuse.
- (2) “Debris and refuse” shall include but not be limited to: broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; new and used lumber or other wood that is not part of a structure or that is not used as firewood and is not stacked or stored in a neat manner on the property; paper, rags, animal waste, cardboard, rubber, plastic, wire, tin and metal materials; discarded household goods or appliances, junk lawn mowers, snow blowers, tires, tire rims or used motor vehicle parts, machine parts, junked boats or junked recreational vehicles; tar paper residue from burning or similar materials which

constitute health, fire or safety hazards or any other materials that have a detrimental visual and aesthetic impact upon the neighborhood in which the property is located or the City in general, which tend to cause a blighted condition as defined under state law, or which emit a noxious, foul or offensive odor.

- (3) The provision of this section shall not apply to materials stored or maintained on a property in conjunction with any business, manufacturing or other use which meets applicable City ordinance including but not limited to fire, building and zoning code requirements and restrictions.

D. SPECIFIC MAINTENANCE REQUIRED.

(1) Exterior Walls and Foundations.

- (a) Every foundation and exterior wall shall be reasonably weather tight, rodent proof, insect proof and shall be kept in a good and sound condition and state of repair. The foundation elements shall adequately support the building at all points. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that they safely and properly remove the products of combustion from the building.
- (b) Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- (c) All cornices, moldings, lintels, sills, oriel windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.

- (2) **Paint and Other Preservatives.** Exterior surfaces of buildings, fences and other structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. Missing or damaged siding shall be promptly replaced.

(3) Doors, Windows and Basement Hatchways.

- (a) Every window, screen, exterior door and basement hatchway shall be tight and shall be kept in a good and sound condition and state of repair. Every window sash shall be fully supplied with glass windowpanes or an approved substitute which is without open cracks or holes. Every window sash shall be in good condition and fit well within its frame.

- (b) Every exterior door, door hinge and door latch shall be maintained in a good and sound condition and state of repair. Exterior doors, when closed, shall fit well within their frames.
 - (c) **Insect screens.** During the period from April to October, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved, tightly fitting screens.
 - i. Screens shall not be required where other approved means, such as air curtains or insect repellant fans, are employed.
 - (d) **Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.
- (4) **Porches, Railings, Stairways, Decks, Balconies, Platforms and Patios.** Every outside stair, porch, balcony, platform, patio and appurtenance thereto, shall be so constructed to be safe to use and capable of supporting normal loads as required by the Building Code and shall be kept in a good and sound condition and state of repair.
 - (a) **Handrails and Guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (5) **Roofs and Drainage.**
 - (a) All roofs shall be maintained so as not to leak and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, interior walls, eaves, soffits or foundations.
 - (b) All courts, yards or other areas on the premises shall be properly graded to divert water away from the building. Ground surface adjacent to the building shall be sloped away from the structure where possible and shall not cause nuisance water to flow onto neighboring properties.
- (6) **Fence and Retaining Wall Requirements.**
 - (a) All fences shall be properly maintained and kept in a good and sound state of repair.
 - (b) Retaining walls shall be structurally sound. No retaining wall shall be constructed or maintained in such a manner as to cause a repeated spillage

of mud, gravel or debris upon any public sidewalk, street, alley or adjoining property.

- (7) **Exterior Property Areas.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, or physical hazards, rodent harborage and infestation, or animal feces.
- (8) **Grading and Drainage of lots.** Every yard, court, vent passageway, driveway, and other portion of the lot on which the building stands shall be graded and drained so as to prevent the accumulation of water on any such surface or on adjacent property. Driveways shall be maintained in good repair.
- (9) **Landscaping.** All exterior property areas shall be kept free from noxious weeds as defined in Chapter 10 of these ordinances. Landscaping, plantings and other decorative surface treatments including common species of grass shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas.
 - (a) Landscaping material. No person shall accumulate, allow to accumulate or store landscaping material in an unused state and open to the public view for a period exceeding ten days.
- (10) **Decorative features.** Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (11) **Overhand extensions.** Overhand extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (12) **Accessory structures.** All accessory structures shall be maintained in a state of good repair and vertical alignment. All exterior appurtenances or accessory structures which serve no useful purpose and are deteriorated or dilapidated condition, which are not economically repairable, shall be removed. Such structures include, but shall not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, and miscellaneous sheds.
- (13) **Motor Vehicles.** Except as provided for in other regulations, inoperative or unlicensed motor vehicles, or motor vehicle parts shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

- (a) **Exception.** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.
- (14) **Residential yard parking regulations.** The parking of any vehicle upon a residential lot shall be in compliance with the following standards:
 - (a) The parking of any vehicle within the front yard or (street) side yard shall be on an improved surface driveway or parking pad. Improved surface shall mean a surface of concrete, asphalt, or other material other than grass, such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water. The remainder of the required front yard setback, and the streetside yard setback on any corner lot, shall not be considered a part of the permitted parking area and shall be landscaped.
 - (b) No parking pad shall be allowed in the minimum front yard setback or minimum street side yard setback established for the district except that one additional parking pad up to ten feet wide may be added directly abutting a single-width or double-width driveway leading to an approved parking area, provided the parking pad shall not be located in front of a home.
 - (c) Parking is prohibited within a driveway right-of-way.
- (15) **Pools, Spas and Hot Tubs.**
 - (a) **Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
 - (b) **Enclosures.** Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool.
 - i. **Exception.** If a hot tub is outfitted with a securely locking, tightly fitted cover, the hot tub will not require an enclosure.
- (16) **Storage and parking of recreational vehicles and trailers.** In all residential and commercial districts provided for in the zoning chapter, it is permissible to park or store a recreational vehicle, camper, trailer, watercraft or boat and boat trailer on private property in the following manner:
 - (a) Parking is permitted inside any enclosed structure, which otherwise conforms to the zoning requirements of the particular zoning district where located.

- (b) Parking is permitted outside in the rear yard provided it is not nearer than five feet to the lot line.
- (c) Parking is permitted outside on a hard-surfaced or well-graveled driveway.
- (d) No part of the unit may extend over the public sidewalk or public right-of-way.
- (e) No unit shall be parked on public streets, highways, intersections, or public land or parking lots for an extended period exceeding 48 hours.
- (f) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling or cooking purposes.
 - b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (g) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (h) The unit shall be owned by the resident on whose property the unit is parked for storage.
- (i) The number of units on any property within City jurisdiction shall not exceed two (2).

E. ACCESS TO PROPERTY.

After presenting proper identification, the Building Inspector, Neighborhood Services Officer, Code Enforcement Officer, or the Police Chief, or their respective deputies or designees, shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Chapter and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stat., as amended from time-to-time.

F. ENFORCEMENT.

(1) Enforcement.

- (a) **Order to correct conditions.** Whenever the City, through its agents or employees shall, upon inspection of the premises within the City, find the condition of the property or premises is in violation of this Chapter, an order shall be issued to the owner (and occupant if different from owner) of the premises or property to correct said condition by the Building Inspector or designee.
- (b) Contents of the order shall include:
 - i. A description of the premises and the violation of the Chapter;

- ii. A statement of the correction necessary to bring the property into compliance;
- iii. A statement specifying the time within which the owner and occupant shall comply with the order; and
- iv. A statement of the penalty section of the ordinance for noncompliance.
- v. A statement specifying accessibility needs, and request for language translation.

G. SERVICE.

The order shall be served on the owner (and occupant if different from owner) by delivering the same to and leaving it with any adult competent person in charge of the premises or in case no such person is found upon the premises by affixing a copy thereof in a conspicuous place near the entrance of the premises and by regular mail to the owner and occupant of the premises.

H. FAILURE TO COMPLY; DECLARATION OF PUBLIC NUISANCE.

(1) Failure to comply.

- (a) **Citation.** Any person, firm or corporation violating any provision of this Chapter shall be subject to the general penalty provisions of this code found in Section 1.20 of the City's Code of Ordinances. A citation may be issued pursuant to Sec. 1.20 of the City's Code or Ordinances.
- (b) **Cause work to be done.** Upon failure to comply with an order where there is proof of service of said order which requires that any premises or property be cleaned or condition abated or improved in accordance with this Chapter, the City may cause such cleaning, improvement, abatement or removal of the offending combustible or incombustible materials, debris or refuse. Such repair or removal shall be deemed a special benefit to such property and the costs of the same shall be charged against the owner(s) of the property. If the cost of the same is not paid within 60 (sixty) days, it shall be levied as a special charge against the property as authorized by Section 66.0627 of the Wis. Stat.
- (c) **Injunctive Relief.** In addition to other applicable enforcement procedures the City shall have the right to abate any violation of this Chapter by an action for injunctive relief in Walworth or Jefferson County Circuit Court.

(2) Abatement

- (a) Enforcement. The chief of police, the chief of the fire department, the building inspector, neighborhood services officer, or other designee shall enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
 - (b) Summary abatement. If the inspecting officer shall determine that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the president may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
 - (c) Abatement after notice. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) of this section.
 - (d) Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the state.
 - (e) Court order. Except when necessary under subsection (b) of this section, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (3) **Cost of abatement.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

I. REINSPECTION FEES

The following fees shall be imposed for the administration of this Chapter.

- (1) First re-inspection fee of \$75.00 per property upon verification of continued violation by City Building Inspector, Neighborhood Services Officer, Code Enforcement Officer or designee.

- (2) For a second reinspection, a fee of \$200.00
- (3) For a third reinspection a fee of \$400.00, and for each subsequent reinspection for the same condition.

If a property owner fails to pay such fees after billing, the City may impose such fees as against the property pursuant to applicable law and collect such charges on the property tax bill each year.

J. APPEAL

Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this section may request and shall be granted a hearing before the Common Council. Requests for such hearing will be filed with the Clerk no later than 5 business days from the date of the final notice of the order.

Ordinance introduced by Council Member Hicks, who moved its adoption.

Seconded by Council Member Schreiber

AYES: Allen, Brown, Dawsey-Smith Gerber, Hicks, Schreiber, Stone

NOES: None

ABSENT: None

ADOPTED: September 19, 2023

John Weidl, City Manager

Karri Anderberg, City Clerk

ORDINANCE No. 2065
AN ORDINANCE CREATING CHAPTER 5.39 LICENSING OF SHORT-TERM
RENTALS

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

SECTION 1. Whitewater Municipal Code Chapter 5.39 is hereby created to read as follows:

5.39.010 – Licensing of Short-Term Rentals

(1) Definitions.

(a) For the purpose of administering and enforcing this section, the terms or words used herein shall be interpreted as follows:

1. Words used in the present tense include the future.
2. Words in the singular number include the plural number.
3. Words in the plural number include the singular number.

(b) The following definitions apply unless specifically modified:

1. City Clerk – The City Clerk of the City of Whitewater or their designee.
2. Corporate Entity – A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.
3. Residential Dwelling Unit – One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities and a bathroom arranged for exclusive use by one (1) person or one (1) family. Residential Dwelling Units include any residential dwelling, tourist rooming house, seasonal employee housing and dormitory units.
4. License – The Short-Term Rental License issued under section 5.39.010(3)
5. Owner – The owner of a short-term rental.

6. Person – Shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.
7. Property Manager – Any person that is not the property owner and is appointed to act as agent and/or provides property management services to one or more short-term rentals.
8. Short-Term Rental – A residential dwelling unit that is offered for rent for a fee for not less than seven (7) days nor more than 29 consecutive days, as defined in Wis. Stat. § 66.0615(1)(dk).
9. State – The State of Wisconsin Department of Health or its designee.

(2) Operation of Short-Term Rentals

- (a) No residential dwelling unit may be rented for a period of six (6) or fewer days.
- (b) No person may maintain, manage, or operate a short-term rental more than ten (10) nights each year without a short-term rental license. Every short-term rental shall be operated by a Property Owner or Property Manager.
- (c) Each short-term rental is required to have the following licenses and permits:
 1. A Wisconsin Rooming House License;
 2. A seller's permit issued by the Wisconsin Department of Revenue pursuant to Wis. Stat. §§ 77.53(3m) and 77.523(1);
 3. A City license issued pursuant to the provisions of this Section.
- (d) Each short-term rental shall comply with all of the following:
 1. The maximum number of allowable rental days within any consecutive 365-day period shall not exceed 180 consecutive days.

2. The Property Owner or Property Manager shall notify the City Clerk in writing when the first rental within a 365-day period begins.
3. No vehicular traffic shall be generated that is greater than normally expected in a typical residential neighborhood.
4. There shall not be excessive noise, fumes, glare, or vibrations generated during the use.
5. Name plates or other signage shall not exceed one (1) square foot. No other signage advertising the short-term rental is permitted on site. Off-site advertising in media channels relating to the availability of the rental may take place only after the City and County licenses have been obtained.
6. The maximum number of occupants in any residential dwelling unit shall not exceed the limits set forth in the State of Wisconsin Uniform Dwelling Code and other applicable county and city housing regulations based upon the number of bedrooms in each unit.
7. No recreational vehicles (RVs), campers, tents, or other temporary lodging arrangements shall be permitted on any residential dwelling unit site as a means of providing additional accommodations for paying guests or other invitees.
8. Any outdoor event held at a short-term rental shall last no longer than one (1) day and shall not occur before 8:00 a.m. and shall not continue after 10:00 p.m. Any activities conducted at a short-term rental shall be in compliance with other noise regulations of the City of Whitewater.
9. All short-term rentals shall be subject to payment of the City of Whitewater room tax at the current applicable rate. Property owners or property managers holding the short-term rental license for a residential dwelling unit are responsible for complying with all room tax requirements as set forth at section 3.12.020 and 3.12.030 of this Code.
10. Compliance with all applicable state, county, and local codes and regulations is required.
11. The property Owner's or property manager's contact information must be on file with the City Clerk at the time of application. The Property Owner or Property Manager must be within 25 miles of the short-term rental property and must be available 24 hours a day. The

Property Owner must notify the City within 24 hours of a change in management contact information for the short-term rental.

12. Short-term rental licenses are issued for a one- (1-) year period and must be renewed annually, on April 30th, subject to City approval or denial.
13. The Property Owner or Property Manager of the short-term rental shall have appropriate insurance for the residential dwelling unit that is used for short-term rental and provide proof of insurance with the license application and renewal.
14. Each short-term rental shall maintain the following written records for each short-term rental of the residential dwelling unit: the full name and current address of any person renting the property, the time period for that rental, and the monetary amount or consideration paid for that rental (the "Register"). A copy of the quarterly Register shall be filed with the quarterly room tax returns required by section 3.12.030 of this Code and a copy of the annual Register shall be filed with the annual room tax return required by section 3.12.030 of this Code.

(3) Short-Term Rental License Required.

- (a) The City Clerk shall issue a short-term rental license to all applicants following the approval of an application and the filing of all documents and records required under this Section. The application shall contain the following information:
 1. Identify the Property Owner with contact information including mailing address, physical address, email address and 24-hour phone number;
 2. Identify the Property Manager, if applicable, with contact information including mailing address, physical address, email address and 24-hour phone number;
 3. The Property Owner or Property Manager shall designate on the application when the first rental within a 365-day period begins.
 4. Subject to City Clerk approval, the Property Owner or Property Manager shall designate on the application when the license term is requested to commence and when the 365-day rental period expires; and
 5. Wisconsin Tourist Rooming House License number.

(4) Short-Term Rental License Procedure

- (a) All applications for a short-term rental license shall be filed with the City Clerk on forms provided. Applications must be filed by the Property Owner or duly authorized Property Managers. No permit shall be issued unless the completed application is accompanied by payment of the required fee.
- (b) Each application shall include the following information and documentation for each short-term rental:
 - 1. A copy of the Wisconsin Tourist Rooming House License.
 - 2. Proof of Insurance.
 - 3. A copy of a seller's permit issued by the Wisconsin Department of Revenue pursuant to Wis. Stat. §§ 77.53(3m) and 77.523(1).
 - 4. Floor plan and requested maximum occupancy.
 - 5. Site plan including available on-site parking.
 - 6. Property Management Agreement (if applicable).
 - 7. Designation of the Property Manager.
 - 8. Certification from the Property Owner or Property Manager that the property meets the requirements of this Section.
- (c) License Terms and Filing Date. Each license shall run for a term of one (1) year commencing on April 1st. The filing fee shall be paid upon filing of the application. The City Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all information and documentation shall not be considered complete.
- (d) Application Review Procedure – When satisfied that the application is complete, the City Clerk shall forward initial applications for licenses to the City Manager, or their designee, for review. If the City Clerk, in consultation with the City Manager, determines that the application meets the requirements of this Section, the City Clerk may approve the application. If the City Clerk, in consultation with the City Manager, determines that the application does not meet the requirements of this Section, the City Clerk may deny the application.

- (e) No permit or license shall be issued, if the applicant or property has outstanding fees, taxes or forfeitures owed to the City of Whitewater, unless arrangements for payment have been approved by the City Clerk.
- (5) License Renewal.
 - (a) Each application for a renewal of a license shall include updated information for the documentation on file with the City Clerk and payment of the applicable fee. The City Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Section. The City Clerk shall request reports from the City of Whitewater Police Department regarding any complaints received, calls for service or actions taken regarding the short-term rental properties. The City Clerk shall issue renewal licenses within 30 days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Section and/or the reports from the Police Department indicate that there are complaints or actions involving the property.
 - (b) If the City Clerk finds that the license should not be renewed, the City Clerk shall deny the renewal.
 - (c) No license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the City, or is under an order issued by the Building Inspector, or their designee, to bring the premises into compliance with City ordinances, unless arrangements for payment have been approved by the City Clerk.
- (6) Property Manager Permit Required.
 - (a) Property Manager Permit. No person may act as a Property Manager for a short-term rental without a Property Manager Permit issued in accordance with the provisions of this Section. The Property Manager Permit shall apply to all short-term rentals for which the Property Manager has exclusive rights for the rental of the property. The Property Manager must certify to the City that each short-term rental operating under a short-term rental license and under management by the Property Manager complies with the standards of this Section.
 - (b) Property Manager Qualifications. To qualify as a Property Manager the applicant must be a natural person residing in or within 25 miles of the City of Whitewater or other legal entity with offices located within 25 miles of the City of Whitewater.
 - (c) Each Property Manager shall be authorized by the Property Owner to act as the agent for the owner for the receipt of service of notice of violation of

this Section's provisions and for service of process pursuant to this Section and shall be authorized by the owner to allow City employees, officers, and their designees, to enter the owner's property for purposes of inspection and enforcement of this Section and/or the City of Whitewater Municipal Code.

- (d) Permit Term and Filing Date. Each permit shall run for a term of one (1) year. The filing fee shall be paid upon filing of the application. The City Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all information and documentation shall not be considered complete.
- (e) Permit Renewal. Each application for a renewal of a permit shall include updated information for the documentation on file with the City Clerk and payment of the applicable fee. The City Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Section. The City Clerk shall request reports from the City of Whitewater Police Department regarding any complaints received, calls for service or actions taken regarding any of the short-term rental properties managed by the Property Manager. The City Clerk shall issue renewal permits within 30 days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Section and/or the reports from the Police Department indicate that there are complaints or actions involving the Property Manager.

(7) Standards for Short-Term Rentals.

- (a) Each short-term rental shall comply with the following minimum requirements:
 - 1. One (1) internal bathroom for every four (4) occupants.
 - 2. Not less than 150 square feet of floor space for the first occupant thereof and at least an additional 100 square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum occupancy for any premises without a separate enclosed bedroom is two (2) people.
 - 3. Not less than one (1) onsite off-street parking space for every four (4) occupants based upon maximum occupancy.

4. A safe, unobstructed means of egress from the short-term rental leading to safe, open space at ground level.
5. Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code.
6. Shall not have an accessible wood burning fireplace unless the property owner provides a certificate from a properly licensed inspector, dated not more than 30 days prior to submission of the short-term rental application or renewal, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.
7. Shall not have a hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking or any other purpose on any balcony, deck or under any overhanging structure or within ten (10) feet of any structure.
8. Shall not have a fire pit or other similar device used for heating or any other purpose on any balcony, deck or under any overhanging structure or within 25 feet of any structure.
9. All Property Managers shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the Wisconsin Office of the Commissioner of Insurance, with liability limits of not less than \$300,000.00 per individual occurrence and not less than \$1,000,000.00 in the aggregate.
10. Certification of Compliance. As a condition of issuance of a license under this Section, the Property Owner or Property Manager shall certify that each property is in compliance with the terms and conditions of the license and this Section.

(8) Room Tax.

- (a) Each Property Owner or Property Manager shall file room tax returns for the short-term rentals and shall comply with all room tax requirements of section 3.12.020 of the Municipal Code.
- (b) All room tax returns and supporting documentation filed pursuant to section 3.12.020 of the Municipal Code are confidential and subject to the protections provided under Wis. Stat. §§ 66.0615(3) and 77.61.

(9) Display of License. Each license shall be displayed on the inside of the main entrance door of each short-term rental.

(10) Appeal and License or Permit Revocation

(a) The denial of any license or permit application or renewal under this Section may be appealed by filing a written appeal request with the City Clerk within ten (10) days of the City's notice of denial. The appeal shall be heard by the Plan & Architectural Review Commission, which shall make a recommendation to the Common Council. The Common Council shall consider the application or renewal and recommendations and may approve or deny the application or renewal.

(b) A license or permit may be revoked by the Common Council for one (1) or more of the following reasons:

1. Failure to make payment on taxes or debt owed to the City.
2. Failure to make payment on any City of Whitewater room tax.
3. Two (2) or more calls in any 12-month period for police services, Whitewater Fire Department services, building code violations, nuisance activities or other ordinance violations as defined in the Municipal Code.
4. Failure to comply with annual City building inspection requirements.
5. Failure to maintain all required local, county, and state licensing requirements.
6. Failure to comply with any applicable zoning regulations as described in Chapter 19 of the Municipal Code of Ordinances.
7. Any violation of local, county or state laws that harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.

(11) Penalties

(a) Any person who shall violate any provision of this Section shall be subject to a penalty as provided in Section 5.31.010 (11b) of this Municipal Code and the forfeiture amounts as provided for in the bond schedule for the City of Whitewater.

- (b) Penalties set forth in the section shall be in addition to all other remedies of injunction, abatement, or assessment of costs whether existing under this section or otherwise.

(12) Fees

Initial Short-Term Rental application fee	\$150.00
Renewal of Short-Term Rental License fee	\$75.00
Late-Filing feeshall be two times (2x) the applicable fee	
Initial Property Manager Permit application fee	\$100.00
Renewal Property Manager Permit fee	\$75.00”

Section 2. **Repeal of Code.** All ordinances or parts of ordinances heretofore adopted by the City of Whitewater in conflict herewith are hereby repealed.

Section 3. **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.

Section 4. **Effective Date.** This Ordinance shall take effect upon publication as required by law.

Ordinance introduced by Council Member _____, who moved its adoption.

Seconded by Council Member _____.

AYES:
NOES:
ABSENT:
ADOPTED:

John Weidl, City Manager

Karri Anderberg, City Clerk

ORDINANCE No. 2066
AN ORDINANCE CREATING CHAPTER 5.85 CONVENIENT CASH BUSINESSES

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

SECTION 1. Whitewater Municipal Code Chapter 5.85 is hereby created to read as follows:

5.85.010 – Convenient Cash Business

A. Purpose.

1. The purpose of this section is to provide for the regulation of convenient cash businesses and other similar establishments pursuant to § 138.09 or 218.05, Wis. Stats.
2. It is recognized that convenient cash businesses have the potential to be harmful to the public welfare, both in regards to the community harmony and with respect to potential effects on the quality, aesthetics and functional aspects of the community. The purpose of regulating convenient cash services is to ensure compatibility with surrounding uses and properties and to avoid an unchecked proliferation of convenient cash services that may result in the displacement of other necessary commercial and financial services.
3. Such businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances. Additionally, it has been found that through their business practices, convenient cash businesses are susceptible to attracting criminals seeking to commit robberies. Finally, when clustered in an area or strung out along an arterial street, such concentration creates an unwarranted negative impression regarding the economic vitality of a commercial district and the community at large. Based on their proliferation, their susceptibility to crime and the negative effects of their proliferation, the common council finds that the health, safety and welfare of the residents of the City of Whitewater should be protected by legislation limiting the geographic proliferation of convenient cash businesses.
4. It is therefore the intent of this ordinance to regulate the locations and hours of operation of convenient cash businesses in the City of Whitewater.

B. Location and Operation of Convenient Cash Businesses.

1. Convenient cash businesses may not be located within 2,500 feet of any other convenient cash business.
2. Convenient cash businesses may not be located within 250 feet of a residential district, as measured by the shortest line between the parcel to be occupied by the proposed convenient cash facility and the property line of the nearest R-zoned property.
3. Convenient cash businesses may not operate between the hours of 9:00 p.m. and 9:00 a.m.

4. Businesses must keep a glass entrance and exit doors with all windows clear of any signs or advertisements.
5. The building or portion thereof that is dedicated to the convenient cash use must have a minimum size of 1,500 square feet of building floor area.
6. All convenient cash businesses shall allow the Whitewater Police Department or a third-party camera system to install an external camera on the property of the business in a location deemed advantageous by the Whitewater Police Department. All convenient cash businesses shall reimburse the Whitewater Police Department up to \$5,000 annually for the external camera installation, maintenance, or other costs related to a third party camera system service contract. The City of Whitewater will be responsible for ensuring camera equipment is repaired and maintained as needed.
7. The applicant must provide a security plan that addresses the following:
 - a. limits on amount of cash immediately available for withdrawal;
 - b. lighting plan for the business showing both exterior and interior lighting;
 - c. plans for maintaining visibility into the interior of the check cashing facility;
 - d. plans for security of the check cashing area of the facility;
 - e. a program for graffiti and litter abatement;
 - f. hours of operation; and
 - g. use of security guards and cameras.
8. The convenient cash business should work with the city and the police department to allow specific access by the police department to interior security cameras in the event of an emergency.
9. Conditional use permit application fees for businesses regulated pursuant to this section must be increased above normal fees in an amount sufficient to fund notices to all property owners within 250 feet of the parcel on which the proposed convenient cash business is to be located.

Ordinance introduced by Council Member Dawsey-Smith, who moved its adoption.

Seconded by Council Member Schreiber.

AYES: Allen, Brown, Dawsey-Smith Gerber, Hicks, Schreiber, Stone

NOES: None

ABSENT: None

ADOPTED: September 19, 2023

John Weidl, City Manager
Karri Anderberg, City Clerk

Ordinance 2067

Ordinance revising Chapter 1.28 right of entry for inspection

Chapter 1.28 RIGHT OF ENTRY FOR INSPECTION

1.28.010 Right of entry for inspection.

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided, that except in An emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect, or destruction of evidence he shall give the owner and/or occupant, if they can be located after reasonable effort, at least twenty-four hours' written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

.1.28.020 Access to exterior property

After presenting proper identification, the Building Inspector, Neighborhood Services Officer, Code Enforcement Officer, or the Police Chief, or their respective deputies or designees, shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Chapter and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stat., as amended from time-to-time.

Chapter 1.29 REINSPECTION FEE CHARGES¹

(a) ~~Purposes.~~ The purposes of this chapter are as follows:

1.29.010 General provisions.

- (1) To assist the city in paying the cost of enforcing its housing, zoning, property-related and other codes;
 - (2) To promote the appropriate regulation and control of buildings and real estate in the city;
 - (3) To protect and provide for the public health, safety, and general welfare of the city;
 - (4) To help protect the character and the social and economic stability of the city;
 - (5) To help protect the value of land and buildings in the city;
 - (6) To help remedy problems associated with real estate related code violations in the city.
- (b) Findings. In enacting the ordinance codified in this chapter, the city council finds that the cost of enforcement of the city codes related to zoning, housing and building regulation and
-

other ordinances is greater than the estimated revenues from reinspection fees expected to be received under this chapter.

1.29.020 Reinspection fee.

- (a) To compensate for inspection and administrative costs, a fee of \$75.00 may be charged to the owner or occupant of property for any reinspection by a city of Whitewater staff member, employee, or officer to determine compliance with an order to correct conditions in violation of the following Whitewater Municipal Code provisions: Title 5 (Business Licenses and Regulations), Title 7 (Public Peace, Safety and Morals, only sections 7.18 Cisterns and Other Openings, 7.20 Vibration and Air Pollution, 7.22 Weeds and Grass, 7.23 Littering, 7.24 Prohibited Discharges, and 7.48 Storing Junk on Property), Title 8 (Health and Safety), Title 9 (Animals), Title 11 (Vehicles and Traffic), Title 12 (Streets, Sidewalks and Public Grounds), Title 14 (Buildings and Construction), Title 16 (Water and Sewers), Title 18 (Land Division and Subdivision), Title 19 (Zoning), and Title 20 (Property Maintenance). Except no fee shall be charged for the reinspection when compliance is recorded. A fee of \$100.00 may be charged for a second reinspection, a fee of \$200.00 for a third reinspection and a fee of \$400.00 for each subsequent reinspection for the same condition. A reinspection fee may also be charged when a city staff member, employee, or officer finds a condition which is similar to a condition which was subject to a correction order within one year prior to the inspection. Reinspection fees shall be charged against the real estate upon which the reinspection's were made, shall be a lien upon the real estate and shall be assessed and collected as a special charge. If there has been a change of ownership or occupancy after the city issues a correction order, the neighborhood services director may waive the reinspection fee if in his or her opinion the new owner or occupant was not aware of the prior order to correct a violation or condition.
- (b) To compensate for inspection and administrative costs, a \$50.00 fee may be charged for any inspection or reinspection when a contractor or property owner requests an inspection for permit-related work and the work is not ready at the time of the requested inspection. Failure to pay reinspection fees after one notice may result in withholding future permits.
- (c) Any property owner or lessor receiving a fourth offense reinspection 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 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 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 reinspection fee of the availability of this abatement process.

Ordinance introduced by Councilmember Hicks, who moved its adoption. Seconded by Councilmember Schreiber

AYES: Allen, Brown, Dawsey-Smith Gerber, Hicks, Schreiber, Stone

NOES: None

ABSENT: None

ADOPTED: September 19, 2023

John Weidl, City Manager

Karri Anderberg, City Clerk

ORDINANCE NO. 2068

AN ORDINANCE REVISION CHAPTER 8.12 FILTH

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

SECTION 1. Whitewater Municipal Code Chapter 8.12 Filth hereby revised to read as follows:

Chapter 8.12 FILTH¹

Sections:

8.12.010 Removal by property owner—Order.

The owner, occupant or person in charge of every building, place or premises in the city is required to keep the same in good sanitary condition, free from nauseous odors, and shall thoroughly cleanse the same or any part thereof when ordered by the city to do so, in the manner and in the time required by the city; and whenever any privy, vault, cesspool or place of deposit of excrement, filth, manure, or other refuse shall be so located that in the opinion of the city the same probably contaminates well or river water, or otherwise endangers the public health, the city may forthwith order the owner of the premises where the same may be, or the person having the control of the depositing of such matters therein, to discontinue its use for such purposes and remove the filth or other refuse there deposited within six hours, or before the building or business responsible ceases operational hours for the day in which the violation was deposited; and the future use of such place as a place of deposit for such matters is forbidden.

(Ord. 1305 § 1, 1995: prior code § 7.03).

8.12.020 Noncompliance with order—Payment of costs.

If the city orders any person to remove or abate any nuisance, source of filth, or cause of disease and such person refuses or neglects to obey such order, the city may cause such order to be executed, and the person so refusing or neglecting to obey any such order shall pay to the city all expenses necessarily incurred in the execution of such order as well as any administrative fees.

8.12.030 Penalty for violation.

Anyone found guilty of violating the provisions of this chapter shall pay a penalty of not less than four hundred dollars, together with the costs of removal specified in Section 8.12.020, together with the costs of prosecution.

Ordinance introduced by Councilmember Stone, who moved its adoption. Seconded by Councilmember Schreiber

AYES: Allen, Brown, Dawsey-Smith Gerber, Hicks, Schreiber, Stone

NOES: None

ABSENT: None

ADOPTED: September 19, 2023

John Weidl, City Manager

Karri Anderberg, City Clerk

ORIDINANCE NO. 2069

AN ORDINANCE REVISION CHAPTER 14.05 BUILDING MAINTENANCE CODE AND
DEWELLING STANDARDS

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

SECTION 1. Whitewater Municipal Code Chapter 14.05 Building and Maintenance Code and Dwelling hereby revised to read as follows:

Chapter 14.05 BUILDING MAINTENANCE CODE AND DWELLING STANDARDSSections:**14.05.010 Legislative findings.**

The common council finds that there exists, and may in the future exist, within the city, buildings or structures that are likely to affect, by reason of their maintenance or lack of maintenance, the health, safety and general welfare of the citizens of this community. It is declared that there is a need for the establishment of certain standards relating to the maintenance and repair of buildings, structures and surrounding areas. It is further declared that failure to maintain buildings and surrounding areas in a reasonable state of repair affects the value of other properties in the area, and adversely affects the environment and living conditions in the area.

(Ord. 1217 (9/17/91) §1(part), 1991).

14.05.020 Purpose.

- (a) It is the purpose of this chapter to improve and/or protect the visual image of the city.
- (b) It is also the purpose of this chapter to establish and enforce health, safety and welfare standards in order to promote the general welfare of the people.

(Ord. 1217 (9/17/91) §1(part), 1991).

14.05.030 Applicability.

- (a) The provisions of this chapter shall apply uniformly to the maintenance, use and occupancy of all buildings, structures and premises within the jurisdiction of the city irrespective of when originally constructed or rehabilitated.
- (b) However, any legally established use or structure existing prior to the effective date of this title that does not conform with the provisions of this title because of size of rooms, size of windows, height of ceilings or other basic structural dimensions shall be considered a legal

nonconforming use under the provisions of Chapter 19.60 of this code. However, such nonconforming use of the structure shall not be extended, enlarged, moved or structurally altered except when required to do so by law or order, or so as to comply with the provisions of this title. Normal maintenance is permitted. This provision shall not be interpreted to disallow the extension or enlargement of a structure in respect to those dimensions that are or may still be in conformance with this title so long as such extensions or enlargements do not thereby create additional nonconforming dimensions.

(Ord. 1217 (9/17/91) §1(part), 1991).

14.05.040 Warning and disclaimer of liability.

The degree of protection intended to be provided by this chapter is considered reasonable for regulatory purposes. This chapter does not imply that compliance will result in freedom from damages nor shall this chapter create a liability on the part of or a cause of action against the city or any officer or employer for any damage that may result from reliance on this chapter. Lack of enforcement of the standards, rules and regulations contained herein shall not create a liability on the part of the city or its officers and agents notwithstanding the issuance of permits or inspection of the premises.

(Ord. 1217 (9/17/91) §1(part), 1991).

14.05.50 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter. Words and phrases not herein otherwise defined shall have the meanings accepted by common usage in other city and state of Wisconsin Codes and Statutes or the common definition set forth in a standard dictionary.

- (1) "Accessory use or structure" means a use or detached structure subordinate to the principal use of structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use of the principal structure.
- (2) "Appropriate Authority" means that person within the governmental structure of the corporate unit who is charged with the administration of the appropriate code, or their designated representative.
- (3) "Approved" means approved by the local or state authority having such administrative authority.
- (4) "Building Inspector" means the person vested with the authority and responsibility by the city to enforce this chapter.
- (5) "Central heating system" means a single system supplying heat to one or more dwelling unit(s) or more than one rooming unit.
- (6) "Chimney" means a vertical masonry shaft of reinforced concrete, or other approved noncombustible, heat-resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

- (7) "Dwelling" means any enclosed space wholly or partly used or intended to be used for living and sleeping, whether or not cooking and eating facilities are provided; manufactured housing and modular construction, which conform to nationally accepted industry standards and used or intended for use for living and sleeping purposes shall be classified as dwellings. (See definition of "unit").
- (8) "Flush water closet" means a toilet bowl which is flushed with water which has been supplied under pressure and equipped with a water-sealed trap under the floor level.
- (9) "Grade" means the average finished level of the adjacent ground.
- (10) "Guest" means an individual who shares a dwelling unit in a nonpermanent status for not more than thirty days in a six-month period.
- (11) "Habitable room" means a room or enclosed floor area used or intended to be used for living or sleeping purposes excluding bathrooms, water closet compartments, basement laundries, furnace rooms, utility rooms of less than fifty square feet of floor space, communicating corridor stairways, closets, storage spaces, unheated areas and workshops and hobby areas below ground level.
- (12) "Heated water" means water heated to a temperature of not less than one hundred ten degrees at the outlet.
- (13) "Occupant" means any individual having possession of a premises or any individual over one year of age, living, sleeping, cooking or eating in or having possession of a dwelling unit; except that in dwelling units a guest shall not be considered an occupant.
- (14) "Operator" means any person who has charge, care, control, or management of a building, or part thereof, in which building units are let.
- (15) "Owner" means any person who, alone or jointly or severally with others:
 - (A) Has legal title to any premises, building, or building unit, with or without accompanying actual possession thereof; or
 - (B) Has charge, care or control of any premises, building, or building unit, as owner or agent of the owner, or an executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
- (16) "Person" means and includes any individual, firm, corporation, association, partnership, cooperative or governmental agency.
- (17) "Plumbing" means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catchbasins, drains, vents and any other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer, or gas lines.
- (18) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land or plat of land, either occupied or unoccupied by a dwelling or nondwelling structure, and

includes any such building or part thereof, accessory structure or other structure thereon.

- (19) "Privacy" means the existence of conditions which will permit an individual or individuals to carry out an activity commenced without interference, either by sight or sound by other individuals.
- (20) "Rodent and/or animal pest-proofing" means a form of construction which will prevent the ingress or egress of rodents and/or animal pests to or from a given space of building, or from gaining access to food, water, or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents and/or animal pests by climbing, burrowing or other methods, by the use of materials impervious to rodent-gnawing and other methods.
- (21) "Supplied" means paid for, furnished by provided by, or under the control of the owner, operator, or agent.
- (22) "Unit" means a room or group of rooms located within a building forming a single habitable or business unit or any other part of a premise controlled by another.

(Ord. 1217 (9/17/91) §1(part), 1991).

14.05.60 Responsibilities of owners and occupants.

- (a) Every occupant of a premises unit shall keep all installed heating, ventilating, electrical and plumbing fixtures in a clean, sanitary and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (b) In every dwelling unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least sixty-seven degrees Fahrenheit shall be maintained in all habitable rooms, bathrooms, and water closet compartments at a distance of forty-eight inches above the floor level, under average minimum winter temperatures.
- (c) No owner, operator or occupant of a building, building unit, or premises shall suffer, permit or allow any condition which may be dangerous to young children because of their inability to appreciate peril and may reasonably be expected to attract them to premises.

(Ord. 1217 (9/17/91) §1(part), 1991).

14.05.70 Minimum standards for basic equipment and facilities.

No person shall occupy as owner, occupant or let to another for occupancy, any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

- (1) Every dwelling unit having a kitchen or kitchenette shall be equipped with the following:
 - (A) A kitchen sink in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides

at all times an adequate amount of heated and unheated running water under pressure, and which is connected to an approved sewer system.

- (B) Cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safekeeping; and a counter or table for food preparation; said cabinets and/or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.
 - (C) A stove or similar device for cooking food, and a refrigerator or similar device, for the safe storage of food at temperatures less than fifty degrees Fahrenheit but more than thirty-two degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove, refrigerator and/or similar devices need not be installed when a dwelling unit is not occupied. Repair, maintenance and replacement of the appliances shall be the responsibility of the owner of the appliance.
- (2) Within every dwelling unit there shall be a non-habitable room which affords privacy to anyone within said room and which is supplied with a flush water closet in good working condition and within every dwelling unit let to another there shall be one such closet for each ten persons or fraction thereof. Said flush water closet shall be equipped with easily cleanable surfaces, and shall be connected both to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and to a sewer system which is approved by the appropriate authority.
 - (3) Within every dwelling unit there shall be a lavatory sink. Said lavatory sink, may be in the same room as the flush water closet, or if located in another room, the lavatory sink shall be placed in close proximity to the door leading directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the appropriate authority.
 - (4) Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same room as flush water closet or in another room and shall be properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated water under pressure.
 - (5) Every dwelling unit in a one-story or two-story dwelling shall have at least two approved means of egress leading to a safe and open space at ground level. Every dwelling unit in a multiple dwelling shall have immediate access to two or more approved means of egress leading to a safe and open space at ground level, or as otherwise permitted by the laws of this state and the city.

- (6) All stairway landings, platforms, roof decks or similar elevations or depressions more than two feet above or below adjacent grade or floor level shall have a guard rail on the open sides thereof, at least thirty-six inches in height, with an intermediate rail at midheight or vertical rails at eleven inches maximum spacing on center. Stairways on the outside of buildings and an integral part thereof, having more than three risers, shall have a handrail on each side. Alternate systems providing at least the same degree of protection, approved by the appropriate authority shall be acceptable.
- (7) Access to or egress from each dwelling unit shall be provided without passing through any other dwelling or dwelling unit, except common areas provided for such purpose.
- (8) No person shall let to another for occupancy any dwelling or dwelling unit unless each exterior door of the dwelling unit is equipped with a safe, functioning locking device.

14.05.80 Minimum standards for light, ventilation and electricity.

No person shall occupy as owner, occupant, or let to another for occupancy, any dwelling unit, for the purpose of living therein, which does not comply with the requirements of this section.

- (1) Every habitable room shall have at least one window or skylight facing outdoors; provided, that if connected to a room or area used seasonally (e.g., porch), then adequate daylight must be possible through this interconnection. The minimum total window or skylight area, measured between stops, for such room shall be at least eight percent of the floor area.
- (2) Fifty percent of the minimum window area size or minimum skylight type of window size, as required in subsection 1 of this section, shall be easily opened except where there is supplied some other device affording adequate ventilation which is approved by the appropriate authority.
- (3) Every bathroom and water closet compartment and nonhabitable room used for food preparation shall comply with the light and ventilation requirement for habitable rooms contained in this section except that no window or skylight shall be required in such rooms if they are equipped with a ventilation system in working condition which is approved by the appropriate authority.
- (4) Every dwelling unit and all public and common areas shall be supplied with electric service, outlets, and fixtures which shall be properly installed and maintained in good and safe working condition and connected to a source of electric power in a manner prescribed by the ordinances, rules, and regulations of the city. The minimum capacity of such services and the minimum number of outlets and fixtures shall be as follows:
 - (A) Floor or Wall Type Electrical Outlets.
 - (i) Kitchen. One floor or wall electrical outlet for each sixty square feet or fraction thereof of total floor area and in no case less than three such outlets;
 - (ii) Bedroom, Living Room, Dining Room. Two floor or wall type electric outlets for the first ninety-nine square feet or fraction thereof and an additional outlet for each additional fifty square feet or fraction thereof;

- (iii) Bathroom, Water Closet Compartment, Utility Room and Workshop. One floor or wall type electric outlet for each room.
- (B) Electric Light Fixtures. Every bathroom water closet compartment, kitchen, kitchenette, laundry room, furnace room, utility room, foyer, communicating corridor, and interior stairway, shall contain at least one electric light fixture with convenient switches or equivalent devices for turning on one light in each room or passageway located so as to permit the area ahead to be lighted.
- (5) Every public hall and stairway in every multiple dwelling containing more than three units shall be adequately lighted by natural or electric light at all times. Every public hall and stairway in structures containing not more than three dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of fulltime lighting.
- (6) However, any legally established electrical fixtures and outlets or arrangement of electrical fixtures and outlets existing prior to the effective date of this title shall be considered a legal nonconforming use under the provisions of Chapter 19.60 of this code.

14.05.90 Minimum heating standards.

No person shall occupy as owner, occupant, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- (1) Every dwelling shall have heating facilities which are properly installed and are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least sixty-seven degrees Fahrenheit at a distance of forty-eight inches above floor level under average minimum winter temperature.
- (2) No owner or occupant shall install, operate or use a means of heating employing a flame that is not vented outside the structure in an approved manner.

14.05.100 Maximum density, minimum space, use and location requirements.

No person shall occupy or let to be occupied any dwelling or dwelling unit for the purpose of living therein unless there is compliance with the requirements of this section.

- (1) The maximum occupancy of any dwelling let to another shall be limited by the following requirement: for each occupant at least one hundred twenty-five square feet of floor space, the floor space to be calculated on the basis of total habitable room area. "Occupant" shall not include any person under eighteen years of age, for the purpose of this subsection.
- (2) The ceiling height of any habitable room shall be at least seven feet, except that in any habitable room under a sloping ceiling at least one-half of the floor area shall have a ceiling height of at least seven feet and the floor area of that part of such room where the ceiling height is less than five feet shall not be considered as part of the floor area

in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

- (3) No space located partially below grade shall be approved for use as a habitable room of a dwelling unit unless:
 - (A) The floor and those portions of the walls are of waterproof and dampproof construction;
 - (B) The minimum window area is equal to at least as required in Section 14.05.310 of this chapter and such window area is located entirely above the grade of the ground adjoining such window area, or if windows are located wholly or partly below grade, there be constructed a properly drained window well whose open area is equal to or greater than the area of the masonry opening for the window; the bottom of the window well is below the top of the impervious masonry construction under the window and the minimum horizontal distance at a right angle from any point of the window well is equal to or greater than the vertical depth of the window well as measured from the bottom of the opening for the window;
 - (C) The total openable window area in each room is equal to at least the minimum as required under Section 14.05.310 of this chapter, except where some other approved devices affording adequate ventilation and humidity control are supplied;
 - (D) There are no pipes, ducts or other similar obstructions less than six feet eight inches above the floor level which interfere with the normal use of the room or area.
- (4) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes shall contain at least fifty-three square feet of floor space for each occupant thereof. Every room for sleeping purposes shall have immediate passage to at least four square feet of floor-to-ceiling height closet space for personal effects of each permissible occupant; if it is lacking, in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of sleeping room space used in determining permissible occupancy. For each occupant at least one hundred twenty-five square feet of floor space, the floor space to be calculated on the basis of total habitable room area. Occupant shall not include any person under eighteen years of age, for the purpose of this subsection.
- (5) No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement, or cellar or to the exterior of the dwelling unit.

14.05.110 Powers and duties of the building inspector.

- (a) The building inspector shall enforce the provisions of this chapter and is authorized and directed to make inspections when he has valid reason to believe that a violation of this chapter or any rules and regulations pursuant thereto has been or is being committed.
- (b) For the purpose of making exterior inspections, the building inspector is authorized to examine and survey at all reasonable times during daylight hours the exterior portion of all buildings, structures or premises. Every owner or occupant shall give the building inspector free access to any said premises.
- (c) The building inspector may require any complainant reporting a violation of this chapter to submit the report in writing.
- (d) The building inspector or his designated representative having probable cause to believe a violation of this chapter exists, shall have authority to enter the interior of any such premises after at least a twenty-four-hour written notice has been given to the owner, or his agent and the occupant requesting an appointment for such entry and inspection. If, after such notice is given, access is denied by both the owner and occupant, the building inspector may apply to the Circuit Court for a special inspection warrant.

14.05.120 Enforcement procedures.

Whenever the building inspector or designee determines that there is a violation of any provision of this chapter, notice of such violation shall be given to the person or persons responsible therefor, which shall:

- (1) Be in writing;
- (2) Indicate the nature of the violation(s);
- (3) Be served upon the owner or his/her agent, and the occupant or operator(s), as the case may require. Such notice shall be deemed to be properly served upon such owner, or his/her agent, and occupant, or operator, if a copy thereof is:
 - (A) Served upon him/her personally, or
 - (B) Sent by registered or certified mail to his/her last known address, and posted in a conspicuous place in or about the building or structure affected by notice;
- (4) State a reasonable amount of time, generally within thirty days, but not to exceed sixty days, unless there are extraordinary circumstances involved, to correct or abate the violation;
- (5) Advise the person served of the right to request a hearing before the board of zoning appeals to appeal the building inspector's order and that the notice shall become an order of the building inspector ten days after service unless such a hearing is requested.

14.05.130 Repairs and other corrective action.

- (a) Whenever an owner, operator or agent of a premises or premises unit fails, neglects or refuses to make repairs, raze or remove, make safe by repairs or other corrective action called for, the building inspector may undertake such repairs or action when in the building

inspector's judgment a failure to make them will endanger the public health, safety or welfare. If the owner fails to repair or remove a building which is dilapidated or blighted to the extent that such building, dwelling, or structure offends the aesthetic character of the immediate neighborhood or produces blight or deterioration by reason of such condition the building inspector may apply to the Circuit Court for an order determining that such building, dwelling, or structure constitutes a public nuisance and the defect shall be remedied.

- (b) Every owner, occupant, operator or agent of a premises or premises unit who has received notice of the intention of the building inspector to make repairs or take other corrective action shall give entry and free access to the agent of the building inspector for the purpose of making such repairs. Any owner, occupant, operator or agent of a dwelling or dwelling unit who refuses, impedes, interferes with, hinders, or obstructs entry to the premises pursuant to notice of intention to make repairs or take other corrective action shall be subject to a civil penalty of a minimum of one hundred dollars plus court costs for each day said party fails to comply with this section.
- (c) When repairs are made or other corrective action taken at the direction of the building inspector and the owner, operator or occupant fails to pay for the expense of such repairs, the cost of such repairs and corrective action may be levied and collected as a special charge or special tax upon the lot or land on which such work is done.

14.05.140 Applications for reconsideration, hearings and appeals.

- (a) Hearings.
 - (1) Any person who receives a notice from the building inspector issued in connection with any alleged violation of the provisions of this chapter or of any applicable rules and regulations pursuant thereto or any order requiring repair or demolition pursuant thereto or any order requiring repair or demolition pursuant to Section 14.05.410 of this chapter, may file with the city clerk of the city a petition to the board of zoning appeals for a hearing setting forth his/her reasons for contesting the notice or order.
 - (2) Such petition shall be filed with the city clerk within ten days after receipt of notice of violation.
 - (3) Upon receipt of a valid petition, the city clerk shall schedule the hearing within twenty days after receipt of the petition and notify the petitioner of the hearing date, time and location.
 - (4) At the hearing, the petitioner shall be given an opportunity to show cause why the notice or order should be modified or withdrawn or why the period of time permitted for compliance should be extended.
 - (5) The board of zoning appeals of the city shall have the power to affirm, modify or revoke the notice or order and may grant an extension of time for the performance of any act required where the board of zoning appeals of the city finds that there is practical difficulty or undue hardship connected with the performance of any act required by the provisions of this chapter or by applicable rules or regulations issued pursuant thereto and that such extension is in harmony with the general purpose of this chapter to secure the public health, safety and welfare.

- (6) The board of zoning appeals may grant variances from the provisions of this chapter or from applicable rules and regulations issued pursuant thereto when the board of zoning appeals finds that there is practical difficulty or unnecessary hardship connected with the performance of any act required by this chapter and applicable rules and regulations pursuant thereto; that strict adherence to such provisions would be arbitrary in the case at hand; that an extension of time would not provide an appropriate remedy in the case at hand; that such variance is in harmony with the general purpose of this chapter to secure the public health, safety, and welfare.
- (b) Appeals. Any person aggrieved by the final decision of the board of zoning appeals of the city may obtain judicial review by filing in a court of competent jurisdiction within twenty days of the announcement of such decision a petition praying that the decision be set aside in whole or in part. A copy of each petition so filed shall be forthwith transmitted to the board of zoning appeals which shall file with the court a record of the proceedings upon which it based its decision. Upon the filing of such record, the court shall affirm, modify or vacate the decision complained of in whole or in part. The findings of the board of zoning appeals with respect to questions of act shall be sustained if supported by substantial evidence on the record, considered as a whole.

14.05.150 Emergencies.

Whenever in the judgment of the building inspector, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued without notice, conference or hearing, directing the owner, occupant, operator or agent to take appropriate action to correct or abate the emergency. If circumstances warrant, the building inspector, or designee may act to correct the emergency.

14.05.160 Penalties.

Any person who is deemed to have notice and any owner, occupant, operator or agent of a building or premises or any person making use of a premises who has received a notice as provided in Section 14.05.410 and who fails, neglects or refuses to comply with, or permits violation of the ordinance provisions set forth in such notice at any time after the specified reasonable consideration period, or any person regardless of notice who fails to conform with these ordinance provisions shall be subject to a forfeiture of a minimum of one hundred dollars plus court costs for each day said party fails to comply with this section.

14.05.170 Conflict of ordinances—Effect of partial invalidity.

- (a) In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the city existing on the effective date of the ordinance codified in this chapter, the provision which established the higher protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the city existing on the effective date of the ordinance codified in this chapter, which established a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail.

- (b) If any section, subsection, paragraph, sentence, clause or phrase of this chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall remain in full force and effect and to this end the provisions of this chapter are hereby declared to be severable.

14.05.180 Effective date.

This chapter is effective upon passage and publication as required by law.

Ordinance introduced by Councilmember Stone, who moved its adoption. Seconded by Councilmember Schreiber

AYES: Allen, Brown, Dawsey-Smith Gerber, Hicks, Schreiber, Stone

NOES: None

ABSENT: None

ADOPTED: September 19, 2023

John Weidl, City Manager

Karri Anderberg, City Clerk