



Council Agenda Item

Meeting Date:	December 2, 2025
Agenda Item:	Ordinance 2025-O-30 an Ordinance to Amend Section 1.28.020 Access to Exterior Property
Staff Contact (name, email, phone):	Steven T. Chesebro, schesebro@whitewater-wi.gov , 262-458-2780

BACKGROUND

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

During the Common Council Meeting on November 18, 2025, a motion was made to amend Ordinance 2025-O-28 to add language regarding exigent circumstances to Section 10 of the ordinance that would be consistent with what the council had previously done. Research was conducted to determine the prior language, and it is believed the Common Council was referencing Ordinance Number 2067 adopted on September 19, 2023, as it applied to Section 1.28.010 Right of entry for inspection.

At the September 19, 2023, meeting Ordinance 2067 was presented with a proposal to add “Staff may only enter under 24 hours’ notice if exigent circumstances exists”. The council during the hearing requested the language be modified to follow the definition read by Chief Meyer into the record at that meeting. Based on the Council’s motion the following language was added to Section 1.28.010: “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.” It is staff’s understanding that this is the language the Common Council requested to be added to Section 1.28.020

It should be noted that there is a substantial difference between the provisions of Section 1.28.010 and 1.28.020. Under Whitewater Ordinance 1.28.010 the authorization is for staff to be able to enter the interior of any structure on private property. Under Whitewater Ordinance 1.28.020, the authorization is only for staff to be able to enter the parcel itself to determine if there are any violations with the City’s ordinances. It should also be noted that while researching the Common Council’s request, City Staff located Watertown Ordinance Sec. 20.04.050 which also permits City Staff to access parcels. To the extent the Common Council wants any access to private parcels limited by providing 24-hour notice, this section also needs to be revised.

It is important prior to modifying the City’s access to the parcels that the Common Council understand the purpose behind these ordinances. 1.28.010 and 1.28.020 are general ordinances which relate to any and all ordinances under the City’s code. They are designed to be a broad grant of authority for City staff to inspect properties to ensure compliance with the City’s ordinances. Part of this is because some violations of the City’s building code are not readily apparent or can be easily hidden, with a few hours preparation time. Electrical or plumbing work that is not properly completed can cause substantial damage to the residents of a property as well as neighboring properties. Under Wisconsin law certain City employees are permitted to inspect private residence to confirm compliance with City Ordinances. If the property owner prohibits the City employee from accessing their property, the City does have an option to obtain an Inspection Warrant.

To obtain the Inspection Warrant the City official must provide an affidavit for the reason they are seeking access to the property, the area they intend to inspect within the property and a clear statement that they have been refused access to the property. Probable cause is not required to conduct an inspection for compliance with City Ordinances or obtain an inspection warrant under Wisconsin Law.

Section 1.28.010 and 1.28.020 cannot change state statutes that specifically address access to residential property, in that they do not expand or restrict the ability of a police officer to inspect or search a property. Adding the 24-hour waiting period for staff to complete an inspection will slow down the City's ability to quickly respond to complaints and may prevent the City from being able to identify violations of the City's ordinances. While there may be good reasons to restrict the City's access to the interior of a structure where a person has a higher sense of privacy, the exterior of the property is less likely to need the same level of additional protection.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

At the Common Council Meeting on November 18, 2025, a motion was made to amend Ordinance 2025-O-28 to add language regarding exigent circumstances to Section 10 of the ordinance that would be consistent with what the council had previously done. The exact words to be added and to what portion of Section 10 was not discussed.

FINANCIAL IMPACT

(If none, state N/A)

Increase staff cost and time as Staff will need to provide 24-hour notice prior to all inspections. If the individual cannot be located, they will need to post the notice on the property or mail the notice to the property owner. This may result in staff driving to and from the location twice, once for notice and the second time for the inspection.

STAFF RECOMMENDATION

Staff recommendation is to decline the proposed Ordinance to require 24-hour notice prior to completing an inspection. While staff do provide advance notice prior to inspections in several cases, doing so prior to every inspection could result in violations of the City's ordinances being covered up or unnecessary delays and increased staff time. Should the Common Council desire to add the 24-hour notice, it is recommended they adopt the proposed ordinance amending both Section 1.28.020 and 20.04.050, instead of adding language that directly mirrors what is in Section 1.28.010.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Ordinance 2025-O-30
2. Excerpt of Minutes of September 19, 2023, Council Meeting.
3. Ordinance 1.28.010 – 1.28.020
4. Ordinance 20.04.050