AN ORDINANCE AMENDING CHAPTER 7.04 CODE OF ETHICS TO CREATE DISCLOSURES OF FINANCIAL AND ECONOMIC INTERESTS AND REVISING THE PROCESS FOR REVIEWING ETHICS COMPLAINTS.

WHEREAS, this ordinance was reviewed by the Ethics Board and is recommended for adoption by said committee; and,

WHEREAS, the Common Council has expressed an interest in requiring disclosures of financial and economic interests by all parties who may have a conflict of interest; and,

WHEREAS, the City has had difficulty in convening an ethics board without conflicts of interest to timely address ethics complaints in the past.

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

SECTION 1: Whitewater Municipal Code Section 7.04.020 is hereby amended to read as follows:

7.04.020 Definitions.

As used in this chapter:

(a) "~~Public employee~~ Employee" means any person excluded from the definition of a public officer who is employed by the city.

(b) "Financial interest" means any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

(c) "Official" means all city officers as defined in Section 62.09 under Wisconsin Statutes and all members of boards and commissions and agencies established or appointed by the city manager or common council, whether paid or unpaid.

(d) "Personal interest" means any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

(e) "Person" means any person, corporation, partnership or joint venture.

(f) "Official required to file" means the following individuals:

i. Common Council Members

ii. Municipal Judge

iii. Members of any Board, Committee, or Commission created by a City of Whitewater resolution or ordinance.

iv. City Manager

v. Chief of Staff

vi. City Attorney or any Deputy or Assistant City Attorney

vii. Community Development Director

viii. Economic Development Coordinator

ix. Director of Finance and Administrative Services

x. Comptroller or Payroll/AP Technician

xi. Clerk of Courts

xii. Library Director and Assistant Director

xiii. Department of Public Works Director

xiv. IT Director

xv. Parks and Recreation Director

xvi. Fire Chief

xvii. Police Chief

xviii. Water Superintendent

xix. Streets, Parks & Forestry Superintendent

xx. Wastewater Superintendent

xxi. Any position created on or after October 20, 2026 within the City of Whitewater which has responsibilities or exercises discretion in a similar manner as any of the above positions.

SECTION 2: Whitewater Municipal Code Subsection 7.04.070(b) is hereby amended to read as follows:

Specific Conflicts Enumerated.

(1) ~~Incompatible~~ Employment. No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter provided.

(2) Contracting. An official or employee of a business in which an official or employee holds a 10% or greater interest, may not enter into a contract with the City involving a payment or payments of more than $1,000.00 within a 12-month period unless the official or employee has made a written disclosure of the nature and extent of such relationship or interest to the City Clerk and reported such interest to the Common Council. Further, pursuant to Section 946.13, Wis. Stats., an official or employee is prohibited from participating in the formation of a contract or contracts with the City of Whitewater involving the receipts or disbursements of more than $1,000.00 in any year.

(3) Gifts and Favors.

(A) No official or employee shall accept any gift whether in the form of service, loan, thing or promise, from any person which may tend to impair his independence of judgment or action in the performance of his duties or grant in the discharge of his

duties any improper favor, service or thing of value. EXCEPTION: Advertising or promotional items having a value of ten dollars or less per gift shall be exempt.

(B) No official or employee may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could reasonably be expected to influence the employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.

(C) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a city official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are extended from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

(D) Gifts received by an official or employee under unusual circumstances should be referred to the ethics board within ten days of receipt for recommended disposition.

SECTION 3: Whitewater Municipal Code Subsection 7.04.070(d) is hereby amended to read as follows:

(d) Disclosure of Interest in Legislation.

(1) Any member of the common council who has a financial interest or personal interest in any proposed legislation before the common council, shall disclose on the records of the common council, the nature and extent of such interest and shall refrain from participating, in the discussion of and/or voting on such action. A member of the Common Council shall request to be excused by the Common Council or committee chairperson for the duration of any deliberations concerning such action in which the member has a financial interest.

(2) A member of a City board, commission, or committee who has a financial interest in any proposed action before the board, commission, or committee on which said member serves, shall disclose the nature to the board, committee, or commission prior to or during the initial discussion of such action and shall refrain from participating in any discussions, deliberations, and/or voting on such action. The members shall request to be excused by the committee, commission, or board or its chairperson for the duration of any discussions, deliberations, or voting concerning the action in which the member has a financial interest.

(3) Any other official or employee who has a financial interest or personal interest in any proposed legislative action of the common council or any board, commission or committee upon which the official or employee has any influence or input or of which the official or employee is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the common council or the appropriate board, commission or committee the nature and extent of such interest.

SECTION 4: Whitewater Municipal Code Subsection 7.04.070(e) is hereby created to read as follows:

(e) Disclosure of Financial and Economic Interests

(1) For the purpose of this section, reporting may occur via Economic Disclosure forms (e.g. ETH-1, ETH-1A, ETH-2, & ETH-3) provided by the Wisconsin Ethics Commission.

(2) Each individual who on January 1 of any year is an official required to file, and who is an official required to file for at least 14 days of that year shall file with the Municipal Clerk, or their designee, no later then January 31 of that year a statement of economic interests meeting the requirements of Wis Stat. §19.44(1), §19.44(2), §19.44(3), and §19.44(4). The information shall be current as of December 31 of the preceding year.

(3) An official required to file shall file with the Municipal Clerk, or their designee, a statement of economic interests meeting each of the requirements of Wis Stat. §19.44(1), §19.44(2), §19.44(3), and §19.44(4) no later than 30 days following the date they assume office if the official has not previously filed a statement of economic interests with the clerk during that year. The information on the statement shall be current as the date they assume office.

(4) Each individual who is an official required to file shall file with the Municipal Clerk, or their designee, a statement of economic interests meeting each of the requirements of s. 19.44 (1) no later than 30 days following the date on which the individual's term of office ends or the individual leaves the office. The information contained on the statement shall be current as of the date on which the individual's term of office ends or the individual leaves the office. An individual who files a statement as provided under this subsection is not required to file another statement of economic interests until such time as the individual again becomes an official required to file.

(5) An official required to file shall file with the Municipal Clerk, or their designee, a statement of economic interests meeting each of the requirements of §19.44(1), §19.44(2), §19.44(3), and §19.44(4) no later than 60 days following the adoption of 7.04.070(e), if the official has not previously filed a statement of economic interests with the clerk during that year. The information on the statement shall be current as the date they file the statement.

(6) All annual disclosure reports shall be provided to council as an agenda item no later than March 31 of each year. Any such disclosures the result of 7.04.070(e)(3), 7.04.070(e)(4), or 7.04.070(e)(5) shall be included as an agenda item no later than 30 days after the Municipal Clerk, or their designee's, receipt of the disclosure.

SECTION 5: Whitewater Municipal Code Section 7.04.076 is hereby created to read as follows:

7.04.076 Advisory Opinions Provided by City Attorney

Any person covered by this subchapter as provided in 7.04.020(c) may request of the City Attorney and advisory opinion regarding the propriety of any matter to which the person

is or may become a party. The City Attorney shall review such a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests, therefore, shall be in writing and shall state all material facts. It shall be prima facie evidence of intent to comply with this subchapter when a person refers a matter to the City Attorney and abides by the advisory opinion if the material facts are as stated in the opinion request. Records of the City Attorney's opinions, opinions requests and investigations of violations shall be closed to public inspection as required by Chapter 19, Wis. Stats. Except as provided by Section 19.59(5)(b), Wis. Stats., the City Attorney shall not make public the identity of any person requesting an advisory opinion or of persons or organizations mentioned in the opinion.

SECTION 6: Whitewater Municipal Code Section 7.04.080 is hereby amended to read as follows:

7.04.080 Ethics Board.

(a) At anytime an ethics complaint is received and a fact finding hearing is necessary ~~There is hereby created~~ an Eethics Bboard to consist of five members and one alternate, all residents of the city shall be empaneled. Elected officials or employees will not be eligible for appointment on the Ethics Board. The city manager shall provide necessary staff assistance to the board. The city attorney shall routinely furnish the board whatever legal assistance is necessary to carry out its functions. However, if a possible, apparent, or actual conflict of interest involving the city attorney should occur, legal counsel shall be furnished the board through the city manager's appointment of other legal counsel after consultation with the chair of the ethics board.

(b) The members of the ethics board shall be ~~appointed by the city manager subject to confirmation by the Common Council.~~ selected by the City Clerk randomly drawing 11 names from all individuals who serve on any committee, board, or commission of the City removing any person related to the complainant or respondent or who serves on a committee with the parties or any other known conflicts. The 11 names will then be provided to the complainant and respondent who shall each strike 2 names so that seven are empaneled. The first five names drawn that remain after the strikes are completed shall comprise the board, and the remaining two individuals shall be alternates should any of the five be conflicted out for unknown reasons or unavailable during the fact finding hearing. Terms of office shall be until the matter is resolved. ~~three years except that when the initial appointments are made, one member shall be appointed for one year, two for two years, and two for three years. The term of the alternate shall be for three years, except that the initial appointment shall coincide with the ending of the terms of the emmber appointed for one year.~~

(c) The ethics board shall elect its own chair, vice-chair and secretary. ~~and shall develop written rules of procedure which shall be filed with the City Clerk.~~

(d) The ethics board may make recommendations to the Common Council with respect to amendments to the code of ethics ordinance.

SECTION 7: Whitewater Municipal Code Section 7.04.090 is hereby amended to read as follows:

7.04.090 ~~Duties of the ethics board.~~ Ethics Complaints.

(a) Upon receipt at the City Clerk's office of a notarized complaint in writing, which shall state the name of the elected or appointed official or employee alleged to have committed a violation of this chapter and which shall set forth the particulars thereof, the C~~e~~ity C~~e~~lerk or designee shall distribute a copy of the complaint along with a copy of the code of ethics ordinance to the respondent within ten working days (i.e., Monday through Friday, excluding holidays). The C~~e~~ity C~~e~~lerk or designee also shall send a copy of the complaint to ~~each member of the ethics board~~ the City Attorney. The information contained in the verified complaint shall be kept confidential until a proper disposition of the case occurs.

(b) ~~The board shall meet in closed session and~~ Within 5 business days of receiving the Complaint the City Attorney shall determine whether the complaint, if true, may constitute a violation of the chapter. If ~~four or more of the members of the board vote to dismiss the verified complaint, a formal dismissal action adopted in open session shall~~ the allegations in the complaint do not allege any violations, the City Attorney shall draft a letter dismissing the complaint within 15 days of receiving the complaint. A copy of the letter shall be filed with the City Clerk and ~~a copy~~ sent to the complainant and the respondent. If the matter is not dismissed, the action shall proceed as provided in subsection (c) of this section.

(c) If the action is not dismissed under subsection (b) of this section, the ~~board~~ City Attorney shall make a preliminary investigation~~s~~ with respect to the alleged violation of the ethics chapter. The preliminary investigation shall include an opportunity for the respondent to file a written response to the allegations. No preliminary investigation of the activities of any elected or appointed official or employee may be initiated unless such official or employee is notified in writing. The notice shall state the nature and purpose of this preliminary investigation. Information gathered during the preliminary investigation shall be kept confidential until a ~~finding is made by the board~~ proper disposition of the case occurs.

(d) If, after the preliminary investigation, ~~three or more of the members of the board vote in open session that no probable cause exists, the board shall issue a formal finding to that effect and dismiss the case.~~ the City Attorney determines that no probable cause exists that the alleged violation occurred, the City Attorney shall prepare a report outlining the investigation that occurred and the reason for dismissing the complaint. A copy of the formal finding shall be filed with the city clerk and a copy distributed to the complainant and the respondent.

~~(e) If the board is unable to come to a conclusion o n the subject of probable cause due to abstentions or the voting of "present," the board shall have further discussion and vote again. If the stalemate continues, the board shall treat it as a dismissal and proceed as in subsection (d) of this section.~~

(~~f~~e) If, after the preliminary investigation, ~~three or more of the members of the board vote~~ the City Attorney determines that there is probable cause that a violation took place, ~~the board~~ the City Attorney shall file formal findings to that effect with the City Clerk and request the City Clerk

empanel an Ethics Board to ~~proceed toward the~~ conduct ~~of~~ a fact-finding hearing. ~~The vote shall be taken in open session.~~

(~~g~~f) In the case of a probable cause finding, the ~~board~~ City Clerk shall send a notice of due process rights and a notice of hearing on the matter to the respondent. The complainant shall also be notified of the hearing.

(~~h~~g) The ~~board~~ Ethics Board shall then conduct a hearing on the verified complaint, which hearing shall be held not more than thirty days after such finding of probable cause. The board shall give the respondent at least twenty days notice of the hearing date. Such hearings shall be at open session unless the respondent petitions for a hearing closed to the public. The rules of ~~criminal~~ evidence under Wis. Stat. Sec. 227.45 shall apply to such hearings. All evidence considered by the board, including certified copies of records and documents, shall be fully offered and made part of the record. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(~~i~~h) During all stages of the proceeding conducted under this section, the elected or appointed official or employee whose activities are under investigation shall be entitled to be represented by counsel of ~~his or her~~ their own choosing.

(~~j~~i) The respondent or ~~his/her~~ their attorney shall have an opportunity to examine all documents and records to be used at the hearing under subsection (g) of this section at a reasonable time before the date of the hearing; as well as during the hearing, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(~~k~~j) The Ethics B~~b~~oard shall have the power to compel the attendance of witnesses and to issue subpoenas granted other boards and commissioners under Section 885.01(3) of the Wisconsin Statutes.

(~~l~~k) Determination. Upon conclusion of the hearing the board shall make a decision agreed to by at least four members. It shall file the decision in writing within ten working days after the vote, signed by at least four participating board members stating findings of fact, conclusions of law concerning the propriety of the conduct of the elected or appointed official or employee, and if appropriate, referring the matter to the city council or other proper authority with a recommendation for censure or other disciplinary action. A member of council censured may be subject to recall pursuant to Section 9.10, Wisconsin Statutes, or any other legal process authorized by law. If four or more members are not able to reach an agreement, the complaint shall be dismissed.

(l) Should the Complaint allege violations of this chapter by the City Attorney, the City Manager shall fulfill the responsibilities of the City Attorney under this Section. Should the Complaint allege violations of this chapter by the City Manager, the Common Council President shall fulfill the responsibilities of the City Attorney under this Section.

SECTION 8: All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 9: Section 4 of this Ordinance shall take effect and be in force as of January 1, 2027 and notice shall be provided to all Official's required to file, of their obligations under this ordinance with a copy of an approved form for filing.

SECTION 10: Sections 1 – 3, and 5 – 8 of this Ordinance shall take effect and be in force as of the day after its passage and publication.

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

Seconded by Council Member _____.

DATE	October 20, 2026				Second Meeting Date			
READING	FIRST				SECOND			
	YES	NO	PASS	ABSENT	YES	NO	PASS	ABSENT
Michael Smith								
Orin Artsmith								
Steven Sahyun								
Brian Schanen								
Neil Hicks								
Gavin Kelleher								
Patrick Singer								
Total:								

ADOPTED: _____

_____
John Weidl, City Manager

ATTEST:

_____
Heather Boehm, City Clerk