



Council Agenda Item

Meeting Date:	February 17, 2026
Agenda Item:	Update on Community Service Program
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BACKGROUND

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

The Common Council asked for an update regarding the City's community service efforts during the Common Council meeting on November 18, 2025. Community service has always been an option available for the Court to use as a penalty for violation of City Ordinances. In the past the Court has on occasion ordered community service to be completed by defendants. When assigned to community service defendants have been notified that the community service must be served without compensation, within the City of Whitewater and that they can coordinate with a non-profit entity within the City that is willing to confirm the community service hours have been completed. The authority to provide community service arises from Wis. Stat. § 800.09(1b) (b).

It is important to note that in most instances, community service is offered in lieu of a forfeiture. This leaves the defendant with the option of completing the community service or paying the forfeiture amount. When a forfeiture is part of the penalty for violation of an ordinance, the total amount due under the forfeiture is comprised of the fine amount plus various surcharges required by Wis. Stat. § 817.75. The most common surcharges for municipal citations are as follows:

1. \$38.00 Local Court Costs
2. 26% of Fine Penalty Surcharge
3. \$10 Jail Surcharge
4. \$13 Crime Lab Surcharge
5. \$535.00 Driver Improvement Surcharge (OWI/PAC/OCS/Reckless Driving)¹
6. \$75.00 Safe Ride Program Surcharge (OWI/PAC/OCS/Reckless Driving)¹
7. \$50.00 Ignition Interlock Surcharge (BAC > .15² or Second First OWI³)

While the Local Court Costs and fine amount remain with the City, all other surcharges are paid to the State of Wisconsin when the forfeiture is collected. The surcharges are occasionally modified by the State. What this means is that a \$20.00 fine becomes a \$86.20 forfeiture of which the City retains \$58 and pays to the state \$28.20. However, if a defendant opts to complete community service based on the full forfeiture amount, they will likely need to complete 5 hours of community service, and no additional funds are owed to the state.

In order to qualify for community service, the violation in question and interactions between the defendant and police department or other City staff must not raise concerns that the individual would be violent or cause damage while completing the community service. In addition, no community service is offered for OWI/PAC/OCS¹ violations.

¹ OWI means Operating While Intoxicated, PAC means Prohibited Alcohol Content, OCS means Operating with Controlled Substances

² BAC>.15 refers to an OWI/PAC violation where the blood alcohol content is deemed to be .15 g/210 L or higher at the time of driving the vehicle.

³ Second First OWI Means a defendant who has been charged with OWI who was previously convicted of OWI more than 10 years ago.

The City has been working to improve the options for community service and currently provides defendants with three options. Option 1 is to contact the Parks and Recreation Department to coordinate with the community service program. Option 2 is to contact the University of Whitewater Student Activities & Involvement Coordinator to assist in locating community service hours. Option 3 is to contact a local non-profit that is willing to supervise and confirm completion of the community service hours. Defendants are provided with a community service form that needs to be completed by the entity they opt to supervise the community service they provide. It includes a place for them to indicate the date, number of hours, and signature of the person overseeing the community service. These forms are required to be returned to the Circuit Court if community service is part of the judgment or to the City Attorney's office if it is a requirement of a deferred prosecution or condition to obtain an offer from the City.

The Whitewater Parks and Recreation Department has created a policy regarding 5 different types of tasks that are often repetitive and may depend on the season. Those tasks include:

1. Cattail Removal
2. Weed Removal in City Flower Beds, Plantings, and Parks
3. Brush Removal
4. Trash Removal
5. Playground Cleanup

Some of these projects have supervision where City staff would be present and observing the activities to ensure proper safety procedures are utilized. Others such as weed or trash removal are credited with time based upon completion of the work. For instance an individual may be able to pull weeds for an hour, but would need to show progress on the weed removal either by a bag of weeds removed, or a review of the flower bed showing they are weed free. City Staff may use some time to explain the standards used by the City and how to properly complete a project. While it is possible for larger groups to participate in community service, it is more likely an individual would be completing the community service with occasionally small groups of two or three people coordinating on a project. In addition supervision may occur while City staff is working on other projects in the area.

As the program continues to develop additional tasks may be added and the City can coordinate with other departments that may have community service options. The City has offered incentives in completing less hours if there is a preferred community service option based upon the original violation. For example: a defendant who pleads no contests to graffiti at a public park, may have an option of completing less hours of community service for cleaning up graffiti or other damage to public parks, than if they were to volunteer at a food pantry.

The second option for community service often assists UW-Whitewater Students in locating community service opportunities and does not itself supervise or sign off on the hours of community service completed.

For the third option there are a number of different opportunities for volunteers at local non-profits, that would need to sign off on the number of hours completed. Types that have been previously accepted include work at food pantries, or on behalf of the school. The City does retain the right to determine if the community service activity will be accepted and advises all defendants to discuss what non-profit and volunteer activity, they will complete prior to trying to obtain credit for their community service.

The Common Council requested additional information about the City's use of Community Service on November 18, 2025.

FINANCIAL IMPACT

(If none, state N/A)

Community service allows the City to provide more services and complete additional projects by having routine minor tasks completed by volunteers and freeing up time for regular employees to work on more complex matters. It also allows the full forfeiture amount to be allocated to the community instead of sending surcharges back to the State.

STAFF RECOMMENDATION

A City Attorney has substantial discretion in recommending, prohibiting or requiring some community service. There is also discretion for a City Attorney to define what is acceptable for community service work. As City Attorney, I am open to any feedback regarding requests to expand the program or place restrictions on the use of community service. This could include any offenses that should be disqualified or provided a community service option. Feedback could also be directed at the maximum rate at which community service should pay off the forfeiture amount. It should be noted that any feedback provided will only ever be applied to future cases and will not affect any case that is already pending before the municipal court.

It is also important to note that while a City Attorney has a lot of discretion regarding community service, the final authority on accepting, requiring, or prohibiting community service lies with the Municipal Court Judge. As an elected official, the Municipal Court Judge, is independent of the Common Council and can reject or approve the City's use of Community Service.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. City of Whitewater Community Service Plan