



Department of Planning & Community & Economic Development

## Planning Division

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To: Common Council

From: Redistricting Staff (Ben Zellers, Brian Grady – Planning Division; Maribeth Witzel-Behl, Nikki Perez – City Clerk’s Office)

Re: New State-Mandated Wards *(note: late-breaking update shown in red below)*

Date: March 24, 2022

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### Timeline - Background

- The City adopted its alder districts and wards on [November 2, 2021](#) under an abbreviated timeline to facilitate the creation of new County Supervisor Districts in time for the spring primary. Approved wards were submitted to the State soon after adoption, as required by State law.
- On [November 18, 2021](#) Governor Tony Evers vetoed the State Legislature’s redistricting legislation.
- On [November 30, 2021](#) the State Supreme Court stated its “least change” criteria for judging proposed legislative maps.
- The State Supreme Court heard arguments concerning proposed legislative maps on [January 19, 2022](#).
- The State Supreme Court chose Governor Evers’ “least change” map on [March 3, 2022](#).
- The State Supreme Court’s ruling was challenged to the Supreme Court of the United States (SCOTUS) on [March 7, 2022](#).
- The City Clerk’s Office received an order from the Wisconsin Elections Commission on **March 17, 2022** requiring the City make ward splits to accommodate the legislative districts approved by the State Supreme Court. Under state law ([Wis. Stats. 5.15](#)) the ward changes must be provided to the State no later than April 10, 2022.
- **On [March 23, 2022](#) SCOTUS ruled that the State Supreme Court did not properly consider all factors when selecting the Governor’s map and referred the issue back for further deliberation.**

Under a “normal” redistricting process – one that takes place with no pandemic delays and without multiple court challenges – there would be at least six months to make ward splits to accommodate the legislative districts, instead of the 12 days between receipt of the order from the State and the only scheduled Council meeting before April 10<sup>th</sup>. Due to the extremely short timeline, staff has compiled the State-required edits in map form, and will follow up with the necessary ward text description edits/additions at a later date for codification in MGO Chapter 15. **Due to the March 23<sup>rd</sup> SCOTUS ruling, the Council should only consider adopting the additional wards if there is further guidance provided between now (March 24<sup>th</sup>) and the Council meeting. This information is being provided in case action is needed/feasible.**

### **Required Ward Splits**

Prior to 2011 redistricting, the State had to use wards submitted by municipalities to draw legislative boundaries. The Governor and Legislature gave themselves the power to require municipalities to implement ward splits starting with the 2011 redistricting process. The State required the City to create [eight new wards](#) during 2011 redistricting. The State is requiring 31 new wards this time. Note that staff has not included obvious State mapping errors. For example, there are many instances where the State maps are showing small slices of right-of-way redistricted in to new legislative districts, and others where the State has redistricted partial lots and/or homes in to new legislative districts.

Some of the new wards required in 2011 were consolidated as part of 2021 redistricting due to low population, but now must be reverted. Wis. Stats. 5.15 sets a ward population range of 1,000-4,000, which meant that low population wards from 2011 redistricting and from annexations over the past decade had to be consolidated with adjoining wards to meet the 1,000 population threshold. Ward consolidations reduced the number of City wards from 154 at the end of 2021 to 119 starting this year. The State-mandated additional wards bump the total back up to 150 wards – a number which will grow over the next 10 years as the City annexes land and absorbs the Town of Madison. Because the State's maps place the Town of Madison in a separate legislative district than the rest of South Madison, Town absorption is anticipated to require creation of 10 new wards under the current plan for assembly districts.

The State has, however, allowed themselves to require creation of wards with less than 1,000 population. Many of the State-required wards have zero population (areas of park land, farm fields, commercial areas, and "lake wards"), and some have only one home, which eliminates the desired, yet not statutorily protected, principle of being able to cast a secret ballot. Unfortunately, even zero population wards require creation of a unique ballot, which has associated financial costs (see the resolution fiscal note) and can result in election day delays for voters and staff due to ballot scanning and administrative factors.

Staff would note that if Wis. Stats. 5.15(4)(a) is not modified to revert to pre-2011 language and "least change" continues to be the standard by which redistricting challenges are judged, the ward issues that were created in 2011 and vastly expanded this year will likely never be addressed. The result needlessly divides neighbors between discontinuous legislative districts and creates a permanent administrative hurdle for Clerk's Office staff as the number of wards balloons to accommodate State-mandated changes. Further, State law will continue to require the City to create wards of 1,000 population during redistricting processes, which would then likely continue to be undone by State action after they complete their Legislative districts – an effort which tends to depend on old ward lines, not the post-redistricting ward lines that the State requires municipalities to submit to them prior to release of their legislative district boundaries.

See the attached map and spreadsheet summarizing State-required ward splits.