



MEETING NOTICE AND AGENDA

White Bear Lake Redistricting Commission
Monday, March 8, 2022
7:00 p.m.
Council Chambers of City Hall
4701 Highway 61
White Bear Lake, MN 55110

1. Call to Order and Roll Call
2. Approval of Agenda
3. Redistricting Presentation
4. Open the Public Hearing on the Tentative Redistricting Plan
5. Adopt a Redistricting Plan
 - 2022 District Map
 - Ward Descriptions
6. Adjournment

*Please contact city clerk, Kara Coustry, if you cannot attend,
651-429-8508 or clerk@whitebearlake.org*

February 22, 2022

To: Kara Coustry, City Clerk, City of White Bear Lake, Minnesota

From: Timothy Geck, Chair
City of White Bear Lake Redistricting Commission

Subject: Tentative 2020 Redistricting Plan

Pursuant to Chapter III of the White Bear Lake Home Rule Charter this Tentative 2020 Redistricting Plan is hereby submitted.

BACKGROUND

The Minnesota State Constitution, Article IV, Sec.3 provides that following each decennial United States Census the legislature shall prescribe the bounds of congressional and legislative districts within the State. If the legislature fails to do so in the manner prescribed by law after having adequate opportunity the judicial branch of the State proceeds to do so with the opportunity for predication by residents through the legal process. Following establishment of congressional and legislative districts, Minnesota Statutes allow local units of government divided into districts to reapportion those districts consistent with an established timeframe.

The United States Census Bureau conducted a census effective April 1, 2020 and data from that count began to be released in mid-2021 with a level of detail allowing state-wide reapportionment to begin. As during the past several decades the legislature was unsuccessful in reaching agreement on establishment districts as prescribed by law and a judicial panel was established which subsequently, and with public participation, adopted and published revised congressional and legislative districts on February 15, 2022.

City Redistricting

Chapter III of the White Bear Lake Home Rule Charter (Attachment 1) charges the City's Charter Commission with serving as the City's Redistricting Commission and preparing a plan for establishing the bounds of the City's five districts (Wards) in a manner so as to be compact,

contiguous and contain as nearly as possible the same number of residents. The boundary lines of the districts must follow the center of the street.

Prior to release of the State redistricting plan the City's Redistricting Commission worked with City staff to prepare a map which illustrated a calculation of 2020 U.S. Census population data by district (Ward) (See Attachment 2). Dividing the City's 2020 population data by five resulted in an expected population of 4,977 residents per district. The range of deviation from that average was 111 (2.2%) less than to 126 (2.6%) greater. Considering the charter requirement that "All districts shall contain, as nearly as possible, the same number of residents" the commission sought definition of or precedent setting "as nearly as possible." A search of MN Statutes found no definition and through assistance of the MN Secretary of State's Office and the League of Minnesota Cities definitions of precedent were not found. The Commission then sought direction from the City Attorney who responded in a letter dated February 9, 2022 (Attachment 3). While the City Attorney also found no specific definition he cited certain legal rulings related to the question and although not a clear fit they did suggest the need for reasonable and good faith effort to reach the equal number requirement. The Commission concluded that while the 2010 (Current) district boundaries were reasonably close, application of the "Good Faith" standard could produce districts closer to an equal number of resident with minimal change.

U.S. Census data were provided in block or enumeration district detail but to comply with the center of the street requirement of the City Charter for district boundaries it was not possible to reach equality as blocks would have had to be divided. This Tentative Plan (Attachment 4) establishes five districts with a deviation from the 4,977 average ranging from 36 (.07%) less than to 14 (.03%) greater. The proposed districts are compact and contiguous, boundaries follow the center of streets and the Commission considers the boundary changes to be minimal.

SUBMISSION

Pursuant to Section 3.04 of the City Charter this Tentative Plan is hereby and a public hearing is scheduled for Monday March 7, 2022 at 7:00 in the White Bear Lake City Council Chambers, for which notice will be published, following which the Commission intends to consider this plan with or without amendment for adoption and submission to the City Council

for first reading of the Redistricting Ordinance on March 8, 2022. The City Council will hold its own Public Hearing on March 22, 2022, for which notice will be published, at which time the Redistricting Ordinance is expected to be adopted. The Redistricting Ordinance is due by March 29, 2022, and becomes effective August, 9, 2022 – the date of the Primary.

c.c. Mayor and City Council
White Bear Lake Redistricting Commission

CHAPTER III COUNCIL DISTRICTS

Sect. 3.01. **Number of Districts.** There shall be five City Council Districts.

Sect. 3.02. **Redistricting Commission.** At such time as required to comply with applicable law, the Redistricting Commission, which shall be comprised of the members of the Charter Commission, shall be convened by the President of the Charter Commission. The duties of the Redistricting Commission are ministerial, and execution thereof may be enforced by court action upon petition of any registered voter of the City or by other appropriate legal authority.

Sect. 3.03. **Redistricting Commission Reports.** Within sixty (60) days after the legislative redistricting plan becomes final, the Redistricting Commission shall file with the City Clerk a report containing a tentative plan for readjustment of the Council Districts to comply with these specifications:

1. All districts shall be formed of compact, contiguous territory. Boundary lines between districts shall follow the center of the street.
2. All districts shall contain, as nearly as possible, the same number of residents.

When the plan currently in effect meets the above specifications, the Redistricting Commission shall refile that same plan.

If the Redistricting Commission recommends district boundary changes, its report shall be filed with the City Clerk as the tentative plan. The plan shall include a map and description of the districts recommended.

Sect. 3.04. **Public Hearings.** Within thirty (30) days after the City Clerk receives the tentative plan, the Redistricting Commission shall hold at least one public hearing, to which the Mayor and City Council shall be invited, to consider the tentative plan. Within thirty (30) days after such public hearing, the Redistricting Commission shall adopt a plan and file such plan with the City Clerk. Thereafter, the City Council shall, by ordinance, enact such plan.

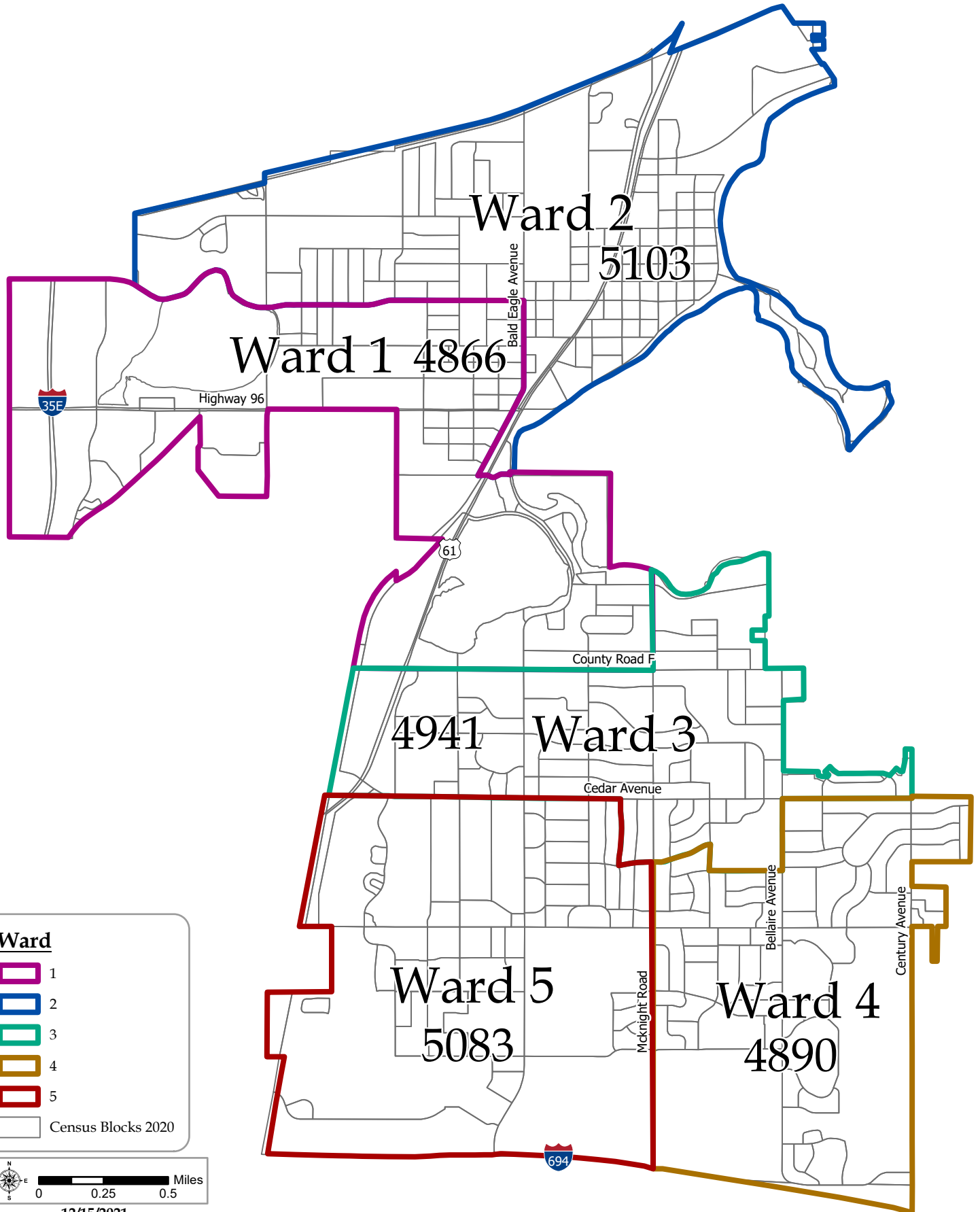
Sect. 3.05. **Failure to Enact Ordinance.** In the event the Council fails to adopt such ordinance, the plan shall nevertheless be deemed enacted sixty (60) days after the plan has been filed with the City Clerk.

Sect. 3.06. **Effect of Enactment.** The new Council districts and boundaries shall supersede previous districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which the Councilmembers elected at that regular City election take office.

Any Councilmember not residing within the boundaries of the Council District from which he/she was elected as a result of district boundary changes shall serve as a Councilmember at large to the expiration of the term.

City of White Bear Lake

2020 Ward Populations



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Ward

- 1
- 2
- 3
- 4
- 5

Census Blocks 2020

0 0.25 0.5 Miles

12/15/2021



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 501 W. Germain Street, Suite 304
 St. Cloud, MN 56301
 (320) 240-8200

February 9, 2022

Tim Geck, Chairperson
 Charter Commission
 City of White Bear Lake
 4701 Highway 61
 White Bear Lake, MN 55110

VIA U.S. MAIL AND EMAIL
 (timgeck@gdolaw.com)

Re: City Attorney Opinion – Redistricting under City Charter, Section 3.03(2)

Dear Chairperson Geck:

The White Bear Lake Charter Commission (“Commission”) requested my opinion on how the phrase “as nearly as possible” in City Charter, Section 3.03 should be interpreted in carrying out the Commission’s duties as the Redistricting Commission. One of the specifications the Redistricting Commission must apply in developing its plan for the readjustment of districts is that: “All districts shall contain, as nearly as possible, the same number of residents.” As pointed out below, this Charter language is slightly different than used in other contexts to express the same concept of equal representation.

As the Commission is aware, Minnesota Statutes, section 205.84, subdivision 1(a) indicates that in cities with wards, the “wards shall be equal in population as practicable . . .” Additionally, Article IV, Section 2 of the Minnesota Constitution indicates that representation in both houses of the state legislature “shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.”

At the federal level, the U.S. Supreme Court held that determining the number of House of Representative members under Article I, Section 2 of the U.S. Constitution “means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.” Wesberry v. Sanders, 376 U.S. 1, 7-8 (1964). I will not go into the test the Court came up with for determining compliance with the provision, other than to point out that after Wesberry the Court noted it has “since explained that the ‘as nearly as is practicable’ standard does not require that congressional districts be drawn with ‘precise mathematical equality,’ but instead that the

State justify population differences between districts that could have been avoided by ‘a good-faith effort to achieve absolute equality.’” Tennant v. Jefferson County Com’n, 567 U.S. 758, 759 (2012)(citations omitted).

At the state level, the Minnesota Supreme Court has addressed challenges to redistricting plans in the following cases. These summaries are intended to convey a sense of how the courts view these matters, but this is not an exhaustive list.

- Fay v. St. Louis County Bd. of Com’rs, 674 N.W.2d 433 (Minn. 2004). The case involved a challenge to the county’s redistricting plan, which is required to be “as nearly equal in population as possible.” Minn. Stat. § 375.025, subd. 1. The Court found the case was properly analyzed under state statutory standards, rather than federal constitutional law standards. Fay at 438. “A reviewing court ‘will be slow to exercise its jurisdiction to set aside the redistricting of a county where it appears that the board by any exercise of sound discretion has effected that reasonable approximation to equality which is required by the statutory command that the districts shall contain as nearly as practicable equal populations.’ Furthermore, the board is presumed to have done its duty and acted within the limits of its statutory powers, and the burden to show otherwise is on the party contending to the contrary.” Id. (citations omitted).
- Hippert v. Ritchie, 813 N.W.2d 374 (Minn. 2012). This case involved a challenge to the state’s legislative districts. “The constitutional purpose of legislative redistricting is to establish election districts of equal population so that each Minnesotan has equal voting power when selecting a representative.” Id. at 386.
- Kahn v. Griffen, 701 N.W.2d 815 (Minn. 2005). This case dealt with a challenge to the City of Minneapolis, arguing the city was required to redistrict and hold a special election promptly after the census. The Court acknowledged that “the principles of mathematical equality and majority rule are important considerations when conducting a right-to-vote analysis. But mathematical equality in representation is not required at all times during the census and election cycles and, further, those concerns cannot outweigh all other factors. Requiring rigid mathematical equality at all times would result in a sacrifice of stability and experience due to shorter terms, increase the costs of elections for taxpayers, make it more difficult for citizens of limited means to participate in local elective politics, and undermine the settled expectations that both voters and elected officials hold.” Id. at 833. The Court ultimately held the city was not required to immediately hold a special election after redistricting.

I was not able to find a case in which a Minnesota court specifically defined or interpreted the phrase “as nearly as possible.” The phrase appears in several Minnesota Statutes, but is not specifically defined. Therefore, the standard rules of statutory interpretation must be applied to interpret the language. Without going into great detail or attempting to list the entire set of rules, the general rules of interpretation are to: 1) ascertain and give effect to legislative intent; 2)

determine if the language is, on its face, clear or ambiguous; 3) language is deemed ambiguous if it is subject to more than one reasonable interpretation; 4) if it is not ambiguous, its plain language must be used; and 5) if it is ambiguous, then it must be read as a whole, giving effect to all of its provisions, to achieve the legislative intent in the context in which it is used. *See generally, Hayden v. City of Minneapolis*, 937 N.W.2d 790 (Minn. Ct. App. 2020). Because the phrase is meant to provide flexibility, one could argue it is subject to more than one reasonable interpretation, even if it is a matter of disagreeing over the degree of flexibility the phrase provides.

Interpreting language involves understanding the definition of the terms used. When the legislation does not define a term, courts often turn to *The American Heritage Dictionary of the English Language* for the definition. That dictionary defines “nearly” as “Almost but not quite.” “Possible” is defined as “Capable of happening, existing, or being true without contradicting proven facts, laws, or circumstances” or as “Capable of becoming or of being made to be so.” Finally, when considering the equivalent statutory phrase, “practicable” is defined as “Capable of being effected, done, or put into practice; feasible.”

In my opinion, the different phrases used in this context are all attempting to capture the same concept – a good faith effort must be made to achieve equality in the numbers to the extent reasonably possible. I view “as nearly as possible” in the Charter as the functional equivalent of “equal in population as practicable” under the statute. Which means there is no need to parse the language to determine which phrase establishes a stricter standard. Compliance with one should be deemed compliance with the other.

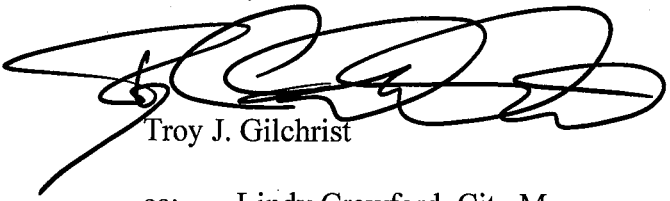
Taking all of this together, it seems clear the intent of the language was to acknowledge that establishing a rule that required precise mathematical equality in the number of residents across all of the districts is not realistic. The City may have a population that does not divide equally among the districts, the boundaries of the City could change after the census, etc. Therefore, in my opinion, the “as nearly as possible” language was intended to qualify, or add some flexibility, to the remainder of the statement requiring that all districts contain the same number of residents. Put another way, the redistricting plan can comply with the Charter even if all of the districts do not contain exactly the same number of residents. Though, that obviously leads to the question of how close to “the same number of residents” is sufficient to satisfy the Charter and the underlying constitutional requirements.

Taking from the rule developed by the U.S. Supreme Court, in carrying out its duties I recommend the Redistricting Commission make an honest and good faith effort to construct the districts as nearly as possible to have the same number of residents, taking into account the compact and contiguous territory requirements, but achieving mathematical perfection is not required. *Harris v. Arizona Independent Redistricting Com’n*, 578 U.S. 253, 258 (2016).

I would be happy to answer any additional questions the Commission may have or to provide additional information as may be needed.

Charter Commission
February 9, 2022
Page 4 of 4

Sincerely,



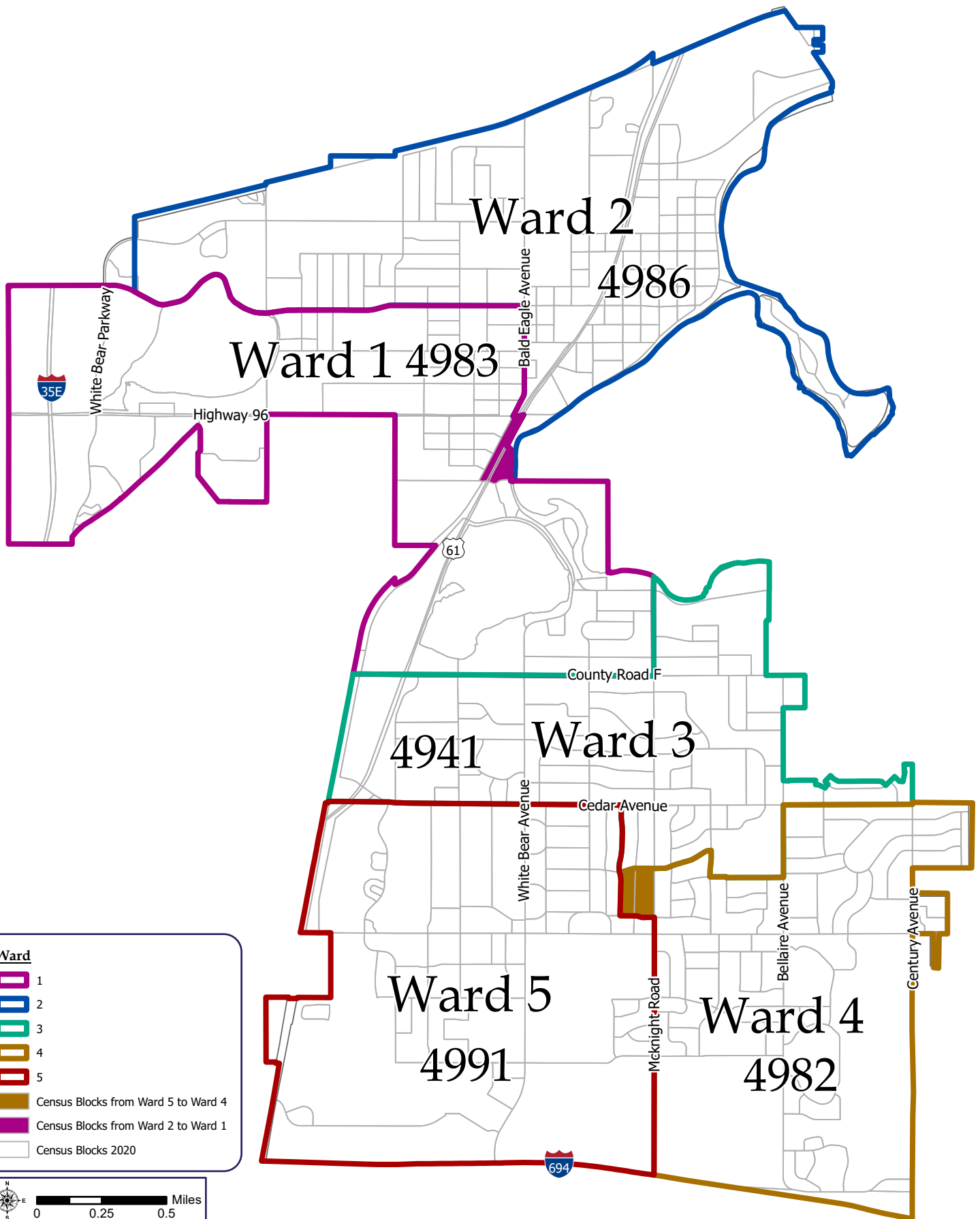
Troy J. Gilchrist

cc: Lindy Crawford, City Manager



City of White Bear Lake

2022 Proposed Wards with Populations



Path: H:\ArcPro\Census2020\Census2020.aprx - 2/15/2022

ORDINANCE NO.

AN ORDINANCE ADOPTING A REDISTRICTING PLAN THEREBY CHANGING THE BOUNDARIES BETWEEN WARDS IN ORDER TO BALANCE THE NUMBER OF RESIDENTS IN EACH WARD

THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, MINNESOTA, DOES HEREBY ORDAIN:

SECTION I. Pursuant to Section 3.03 of the White Bear Lake City Charter, the White Bear Lake Charter Commission, acting as the City's Redistricting Commission has, following a public hearing, certified a plan for the redistricting of City ward boundaries to the City Council for review and approval. The redistricting plan established the City's five wards as follows:

Ward 1 Ward 1 shall be defined as follows:

Beginning at County Road F and McKnight Road north to the shore of White Bear Lake, following the shore west to Whitaker Street, west to Lake Avenue South, north to US Highway 61, north to Highway 96~~west to Lincoln Avenue, west to Bald Eagle Avenue~~north to Bald Eagle Avenue, north to 4th Street, west to Birch Lake Blvd N., west to Centerville Road, south on Centerville Road to the southerly City limits, and following the City limits east and south to County Road F, east to McKnight Road and the point of origin. Ward 1 shall have one precinct.

Ward 2 Ward 2 shall be defined as follows:

Beginning at the extension of Whitaker Street to the shore of White Bear Lake, northeast along the shore of the lake, including Manitou Island, to the City limits, then following the east City limits to the north City limits, to the west City limits, south to Birch Lake Blvd N., east to 4th Street, east to Bald Eagle Avenue, south to Highway 96, east to US Highway 61, south to Lake Avenue South, south to Whitaker, ~~south to Lincoln Avenue~~ and east to the lakeshore and the point of origin. Ward 2 shall have one precinct.

Ward 3 Ward 3 ~~shall contain two (2) precincts and~~ shall be defined as follows:

~~Ward 3 Precinct 1:~~ Beginning at Cedar Avenue and East County Line Road north to the City limits, west following the City limits to Bellaire Avenue, north following the City limits to the lakeshore, west along the lakeshore to the extension of McKnight Road, south to County Road F, west to the western City limits, south to Cedar Avenue, east to Howard Avenue, south to Dorothy Avenue, east to Cranbrook Drive, South to Mayfair Avenue, east to Bellaire Avenue, north to Cedar Avenue, east to East County Line Road and the point of origin. Ward 3 shall have one precinct

~~Ward 3 Precinct 2: Beginning at Cedar Avenue and Howard Avenue south to Dorothy Avenue, west to Cranbrook Drive, south to Mayfair Avenue, east to~~

ORDINANCE NO.

~~Bellaire Avenue, north to Cedar Avenue, west to Howard Avenue and the point of origin.~~

Ward 4 Ward 4 shall contain two (2) precincts and shall be defined as follows:

Ward 4, Precinct 1: Beginning at Highway 120 (Century Avenue) and the south City limits, north to Cedar Avenue, west to Bellaire Avenue, south to Mayfair Avenue, west to Cranbrook Drive, north to Dorothy Avenue, southwesterly to ~~Howard Avenue~~~~McKnight Road,~~, south to Spruce Place, east to McKnight Road, south to the south City limits, east to Highway 120 (Century Avenue) and the point of origin.

Ward 4, Precinct 2: All are of the City of White Bear Lake located within Washington County, MN.

Ward 5 Ward 5 shall be defined as follows:

Beginning at McKnight Road and the City’s southerly City limits, north to ~~Spruce Place~~~~Dorothy Avenue~~, west to Howard Avenue, north to Cedar Avenue, west to the ~~City’s~~ westerly City limits, south to the City’s southerly City limits, east to McKnight Road and the point of origin. Ward 5 shall have one precinct.

SECTION II The City Council hereby approves the redistricting plan as presented.

SECTION III This ordinance becomes effective upon approval and publication **on the date of the state primary election (August 9, 2022)**. The new districts (wards) and boundaries shall supersede previous districts (wards) and boundaries for all the purposes of the next regular City election, including nominations.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the ___ day of _____ 2022.

Dan Louismet, Mayor

Attest: _____
Kara Coustry, City Clerk

First Reading: _____

Initial Publication: _____

Second Reading: _____

ORDINANCE NO.

Final Publication: _____

Codified: _____

Posted on web: _____