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January 6, 2017

Memorandum

To: Ordinance and License Committee
From: Brian Running
Re: Proposed Amendments to Municipal Code section 25.08

The Community Development Department, Public Works Department, Fire Department and Police Department are proposing amendments to WMC 25.08 and the creation of WMC 25.10. The origin of this proposal is a question that arose about responsibility for issuing citations for failure to remove snow from sidewalks. When reviewing the applicable ordinances, I decided that it would be best to re-work the entire ordinance, for a number of reasons. So, we have a comprehensive proposal that expands and clarifies citation-writing authority and puts the deposit and bond schedule provisions in their own separate section, so they can be found more easily in the code.

New §25.08 does the following things:

- Expands the authority of Community Service Officers to issue citations for violations occurring primarily in parks and downtown.
- Expands and clarifies the authority of building inspectors to write citations. The Director of Community Development can appoint agents to issue citations.
- Expands and clarifies the authority of the Public Works Department to write citations. The Director of Community Development can appoint agents to issue citations. Besides snow-removal tickets under Chapter 6, agents of Public Works can issue citations for transit, sewer, garbage-collection, and stormwater violations.
- Expands and clarifies the authority of the Fire Department to write citations. Some obsolete ranks and job titles were updated, and Battalion Chiefs were added. Also, the Fire Department's ability to issue citations for fire-related property maintenance code violations is expanded.

New §25.10 simply breaks old §25.08(2) into its own section. This gives it its own title and allows it to be found in the code more easily.

The authority for us to do all of this is in Wis. Stats. §66.0113(2)(a):

(a) Citations authorized under this section may be issued by law enforcement officers of the county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district. In addition, the governing body of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district may designate by ordinance or resolution other county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to employees. Authority delegated to an official or employee shall be revoked in the same manner by which it is conferred.

The intent of these changes is to clarify powers and duties, and to make it easier for citations to be issued when violations are found. Instead of having to contact the Police Department or Building Inspection Department to issue a citation for a violation of a sewer-connection violation, for instance, the Public Works Department can simply issue the citation.

The proposed ordinance is attached, along with a copy of existing §25.08 for your reference.

Please let me know if you have any questions.

**Common Council
of the
City of Waukesha, Wisconsin**

Ordinance No. _____-17

An Ordinance Repealing Section 25.08, Re-Creating Section 25.08, and Creating Section 25.10 of the Waukesha Municipal Code, Regarding Authority to Issue Citations, and Creation and Maintenance of a Schedule of Deposits for Code Violations

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Section 25.08 of the Waukesha Municipal Code is repealed in its entirety and re-created to read as follows:

25.08 Form of Citations, Authority to Issue.

- (1) Adoption of Citation Form.** The forms of citation described in Wis. Stats. §800.02(2)(a), §800.02(2)(ag), and §800.02(2)(b) are adopted and authorized for use for violations of the Municipal Code.
- (2) Authority to Issue.** Citations may be issued by any of the following persons, for the specified violations:
 - (a) Police Officers.** Sworn police officers may issue citations for any violations of the Municipal Code.
 - (b) Community Service Officers.** Civilian Community Service Officers may issue citations for violations of the following Municipal Code Sections:
 - (i)** §7.04(1) Prohibited parking, in City parks only
 - (ii)** §7.04(8) Double parking, loading, or unloading
 - (iii)** §7.05(2) Bicycle registration
 - (iv)** §7.05(9)(a) Bicycle riding where prohibited by sign
 - (v)** §7.05(9)(b) Bicycle riding on sidewalks in Central Business District
 - (vi)** §8.18(1) Mobile food vans in park
 - (vii)** §11.05(6) Violation of park hours

- (viii) §11.07 Plaza area violations
- (ix) §11.075 Use of skateboards in parks
- (x) §11.08 Littering
- (xi) §11.12(2) Selling, keeping, or discharging fireworks
- (xii) §11.22(1)(c)(2) Excessive dog barking
- (xiii) §11.22(1)(j) Dogs in park
- (xiv) §11.27(1) Open intoxicants on public property
- (xv) §11.27(4) Alcohol in parks
- (xvi) §11.37 Habitation in parks
- (xvii) §11.40 Panhandling
- (xviii) §12.05(10) Unreasonable noise
- (xix) §12.08(2) Parking on unimproved surface

(c) **Chief Building Inspector, Director of Community Development, City Planner, and Agents Designated by the Director of Community Development.** For violations of the following Municipal Code Sections and Chapters:

- (i) §11.38 Locks for Swimming Pool Gates
- (ii) Chapter 12 Public Nuisances
- (iii) Chapter 13 Public Health and Welfare
- (iv) Chapter 16 Building Code
- (v) Chapter 17 Property Maintenance Code
- (vi) Chapter 18 Electrical Code
- (vii) Chapter 19 Plumbing Code
- (viii) Chapter 20 HVAC Code
- (ix) Chapter 22 Zoning Code
- (x) Chapter 27 Signs and Outdoor Advertising
- (xi) Chapter 33 Animals

(d) **Director of Public Works and Agents Designated by Director of Public Works.** For violations of the following Municipal Code Sections and Chapters:

- (i) §13.055 Residential Solid Waste and Recyclables Collection
- (ii) §19.05 Location of Sanitary Connections
- (iii) §19.09 Prohibited Sewer Connections
- (iv) §19.10 Prohibited Waste in Sewers
- (v) §19.11 Discharge of Sewers onto Streets
- (vi) Chapter 6 Streets and Sidewalks
- (vii) Chapter 29 Sewer Use and Wastewater Treatment
- (viii) Chapter 31 Mass Transit
- (ix) Chapter 32 Stormwater Management and Erosion Control

(e) **Fire Chief, Assistant Fire Chief, Battalion Chiefs, Fire Marshal, and Fire Inspector.** For violations of the following Municipal Code Sections and Chapters:

- (i) §11.12 Regulation of Fireworks
- (ii) Chapter 17 Property Maintenance Code
- (iii) Chapter 21 Fire Prevention Code

Section 2: Section 25.10 of the Waukesha Municipal Code is created, to read in its entirety as follows:

25.10 Deposits for Code Violations. The Municipal Judge shall determine a schedule of deposits for ordinance violations, pursuant to Wis. Stats. §800.037; except for traffic cases, in which the deposit shall be made as provided in Wis. Stats. §345.26; and except for boating cases, in which the deposit shall be made as provided in Wis. Stats. §23.66 and §23.67. The deposit schedule determined by the Municipal Judge shall be subject to approval by the Common Council. The schedule of deposits shall be kept current and available for public view at the Office of the Clerk of Municipal Court, and is incorporated into this Code as if fully set forth herein. Deposits shall be paid to the Office of the Clerk of Municipal Court. A receipt shall be given to any person paying a deposit, by the Clerk of Municipal Court.

Section 3. This Ordinance shall be effective immediately upon its publication.

Passed the _____ day of _____, 2017.

Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk

DRAFT

25.08 Ordinance Violations - Citations

(1) **AUTHORITY TO ISSUE.** The use of a citation in the form described in § 800.02(2)(a) and §§ 800.02(2)(a)1.-2)(a)10., Wis. Stats., shall be adopted and authorized for use to be issued for violations of ordinances except violations for which use of a special citation form is required by § 800.02(2)(b), Wis. Stats.

(2) **CASH DEPOSITS.** The Municipal Judge shall set a schedule of cash deposits for all ordinance violations to be approved by the Common Council pursuant to § 800.03(3), Wis. Stats. The schedule of cash deposits shall be kept current and available for public view at the Office of the Clerk of Municipal Court, and are hereby adopted and made a part of this Code as if fully set forth herein. Cash deposits shall be paid to the Office of the Clerk of Municipal Court. A receipt shall be given to any person paying a cash deposit by the person to whom such deposit is paid.

(3) **ISSUANCE.** (Am. #12-11) The citation adopted and authorized by this section shall be issued by any law enforcement officer of the City. The Police Department may designate civilian Community Service Officers to sign and issue citations for violations of the following ordinances: 7.04(4) Vehicles prohibited in park

7.04(8) Double parking/loading/unloading

7.05(2) Bicycle registration

8.18(1) Mobile food vans prohibited in park

11.05(6) Violation of park hours

11.075 Prohibited use of skateboards in park

11.08 Littering

11.09 Juvenile possess tobacco products

11.12(2) Fireworks sell, keep, and discharge

11.22(j) Dogs in park

In addition, citations shall be issued by the Chief Building Inspector, the Community Development Director, City Planner and the person designated by the Director of Public Works as set forth in § 6.12(2) of this Municipal Code. Further, the Fire Chief, Assistant Fire Chiefs, Lieutenant of the Inspection Bureau and the Fire Inspector may issue citations for violations of the Fire Code and Fireworks Ordinance. The Chief Building Inspector, City Planner, and the Community Development Director may appoint agents to issue citations; these agents shall be approved by the City Council.