

LEGISLATIVE COMMITTEE

City of Kaukauna
Council Chambers
Municipal Services Building
144 W. Second Street, Kaukauna



Monday, July 15, 2024 at 6:25 PM

AGENDA

In-Person and Remote Teleconference via ZOOM

1. Correspondence.
2. Discussion Topics.
 - [a.](#) Ordinance creating section 1.26 and repealing and replacing sections 1.03 and 10.03(6) of the municipal code.
 - [b.](#) Ordinance repealing and replacing section 14.04 of the Municipal Code.
3. Adjourn.

NOTICES

Notice is hereby given that a majority of the City Council will be present at the meeting of the Legislative Committee scheduled for Monday, July 15, 2024 at 6:25 P.M. to gather information about a subject over which they have decision making responsibility.

IF REQUESTED THREE (3) DAYS PRIOR TO THE MEETING, A SIGN LANGUAGE INTERPRETER WILL BE MADE AVAILABLE AT NO CHARGE.





MEMO

To: Legislative Committee

From: City Attorney, Tim Greenwood

Date: July 10, 2024

Re: ORDINANCE CREATING SECTION 1.26 AND REPEALING AND REPLACING SECTIONS 1.03 AND 10.03(6)

The Ordinance presented is an update to our Municipal Code to create a Weed Commissioner role that would be designated by the Mayor, as indicated by statute (Wis. Stat. 66.0517). The Ordinance also updates our Municipal Code’s process and procedure for dealing with Noxious Weeds within the City.

The current code does not appoint a Weed Commissioner who is statutorily allowed certain powers and duties to help regulate and enforce the destruction of Noxious Weeds within the City.

The current code also does not provide a procedure for residents to be notified if there is a violation of the Noxious Weeds ordinance, for a resident to be allowed to come into compliance with the Noxious Weed ordinance, and if the resident fails to destroy the Noxious Weeds, for the City to come in and remove such Noxious Weeds.

Staff Recommended Action:

1. Adoption of Ordinance creating Section 1.26 and repealing and replacing Sections 1.03 and 10.03(6)



**CITY OF KAUKAUNA
ORDINANCE NO. 1910-2024**

**ORDINANCE CREATING SECTION 1.26 AND REPEALING AND REPLACING
SECTIONS 1.03 AND 10.03(6)**

WHEREAS, the City of Kaukauna Common Council approved Ordinance 10.03(6) previously to deal with Noxious Weeds within the City; and

WHEREAS, the Wisconsin State Statute contained within Ordinance 10.03(6) has since been renumbered where it no longer cites to a correct state statute; and

WHEREAS, the City of Kaukauna Common Council wishes to correct the referred to statute, update the process for destroying noxious weeds, and designate a Weed Commissioner role be created to carry out destroying Noxious Weeds within the City.

NOW, THEREFORE, the Common Council of the City of Kaukauna, Wisconsin, do ordain as follows:

Sections 1.03; 1.26; and 10.03(6) are hereby created and/or repealed and replaced to read as follows:

BEFORE REPEAL AND REPLACE

1.03 Appointed Officials

The following shall be appointed officials:

Official	How Appointed	Term
Building Inspector	City Council	Indefinite
Chief of Police	Police and Fire Commission	Indefinite
City Assessor	City Council	Indefinite
City Engineer	City Council	Indefinite
City Librarian	Library Board	Indefinite
City Clerk	City Council	Indefinite
Director of Planning and Community Development	City Council	Indefinite
Finance director	City council	Indefinite
Fire Chief	Police and Fire Commission	Indefinite
Recreation Director	City Council	Indefinite
Street Superintendent	City Council	Indefinite
Treasurer	City Council	Indefinite

AFTER REPEAL AND REPLACE

1.03 Appointed Officials

The following shall be appointed officials:

Official	How Appointed	Term
Building Inspector	City Council	Indefinite
Chief of Police	Police and Fire Commission	Indefinite
City Assessor	City Council	Indefinite
City Engineer	City Council	Indefinite
City Librarian	Library Board	Indefinite
City Clerk	City Council	Indefinite
Director of Planning and Community Development	City Council	Indefinite
Finance director	City Council	Indefinite
Fire Chief	Police and Fire Commission	Indefinite
Recreation Director	City Council	Indefinite
Street Superintendent	City Council	Indefinite
Treasurer	City Council	Indefinite
Weed Commissioner	Mayor	1-Year

BEFORE ADOPTION

1.26 (Reserved)

AFTER ADOPTION

1.26 Weed Commissioner

- Appointment.* The Weed Commissioner shall be appointed by the Mayor pursuant to Wis. Stats. § 66.0517.
- Duties.* The Weed Commissioner shall have the powers and duties described in Wis. Stats. § 66.0517. The Weed Commissioner can carry out destruction of Noxious Weeds as described by City Ordinance 10.03(6).

BEFORE REPEAL AND REPLACE

10.03(6) Noxious weeds. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot. The city may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property under Wis. Stats. § 66.60(16). The charge for removing weeds and vegetation referred to herein shall be a \$150.00 minimum charge for city lots up to 8,000 square feet and a charge of \$150.00 per hour for larger city lots and/or additional work required to facilitate lawn cutting and removal of weeds and vegetation. This section shall not apply to vacant lots located on a face block where less than 50

percent of the face block is occupied. This section shall also not apply to vacant lots in the city industrial park until such lots are occupied.

AFTER REPEAL AND REPLACE

10.03(6) Noxious weeds:

a. Definitions:

- 1. Destroy, has a definition as defined in Wis. Stats. § 66.0407(1)(a)
- 2. Noxious weed(s), as described in (c) below and in Wis. Stats. § 66.0407(1)(b).

b. At the direction of the City Mayor, the City Clerk shall annually, on or before May 15, publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which they own, occupy or control. A joint notice with other towns or municipalities may be utilized.

c. Noxious weeds include any weed, grass, or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or would cause a skin rash through contact with the skin. All weeds and grass shall be kept cut to a height of not to exceed twelve (12) inches. Any weed or grass that is kept to a height that exceeds twelve (12) inches can be considered a noxious weed for purposes of this section.

d. If the owner or occupant neglects to destroy any noxious weed as required by (b) of this section, then the Director of the Public Works, Code Enforcement Officer, or either of their assigns, shall give notice in the following manner:

1. Providing a documented warning to the owner or occupant of property of the violation. Typically done by either having a discussion with the owner or occupant about the violation and expectation to have the noxious weed destroyed within a certain time frame or by leaving notice at a conspicuous place about the property indicating the violation and to have the noxious weed destroyed within a certain time frame.

2. If the destruction of noxious weeds is not completed within the designated time frame under (1) of this subsection, formal notice shall be provided to the owner or occupant of a seven-day, written notice by mail to the owner or occupant of lands upon which noxious weeds are growing. If the owner or occupant neglects to destroy any noxious weeds as required by such notice, after the expiration of the seven-day period, the City’s Weed Commissioner can proceed to destroy, or cause to be destroyed, all such weeds growing upon the land. The cost thereof will be assessed as a tax upon the lands upon which the weeds are located pursuant to Wis. Stats. § 66.0517. The charge for removing noxious weeds shall be \$150.00 per hour, with a \$150.00 minimum charge to facilitate destroying, or causing to be destroyed, noxious weeds.

e. During the same growing season there will be no second notice to property owners to abate. If a second complaint is received and substantiated after City already destroyed Noxious Weeds during the same growing season and regarding the same parcel of land, the City may cause the destruction of Noxious Weeds at the property and bill the owner for time, machinery, and administrative costs without having to give formal notice a second time. The City Council has determined that it has zero tolerance regarding this issue – the abatement is the owner’s responsibility.

f. This section shall not apply to vacant lots located on a face block where less than 50 percent of the face block is occupied except for growth in the right-of-way, any growth obstructing any public sidewalks or streets, or any growth affecting safety across vision corners. This section shall also not apply to vacant lots in the City industrial park until such lots are occupied, except for growth in the right-of-way, any growth obstructing any public sidewalks or streets, or any growth affecting safety across vision corners.

Passed and adopted by Council on the 16th day of July, 2024.

APPROVED: _____
Anthony J. Penterman, Mayor

ATTEST: _____
Sally Kenney, Clerk



MEMO

To: Legislative Committee
From: City Attorney, Tim Greenwood
Date: July 10, 2024
Re: ORDINANCE REPEALING AND REPLACING SECTION 14.04

The Ordinance presented is an update to our Municipal Code to allow the Code Enforcement Officer to issue citations under Chapter 19 (Fire Prevention).

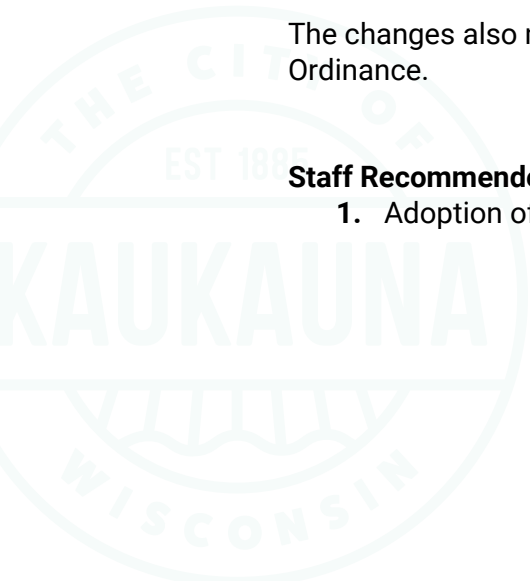
The current code allows the Code Enforcement Officer to issue citations for Chapters 10, 14, 17, 19, and other sections of the Municipal Code of the City of Kaukauna that are directly related to the responsibilities of the Code Enforcement Officer or Building Inspection Office.

Staff wishes for the Code Enforcement Officer to be allowed to issue citations under Chapter 19 (Fire Prevention) to be able to aid in getting potential citations out to violators.

The changes also makes minor modifications of grammar and capitalization within the Ordinance.

Staff Recommended Action:

1. Adoption of Ordinance repealing and replacing Section 14.04.



ORDINANCE NO. 1911-2024

ORDINANCE REPEALING AND REPLACING SECTION 14.04

WHEREAS, the City of Kaukauna Common Council approved a Code Enforcement position to handle all code enforcement issues; and

WHEREAS, the Code Enforcement Officer is limited in the types of ordinance violations it is able to enforce and issue citations for; and

WHEREAS, it is desired to allow the Code Enforcement Officer to be allowed to issue citations under Chapter 21 (Fire Prevention) of the City Ordinances;

NOW, THEREFORE, the Common Council of the City of Kaukauna, Wisconsin, do ordain as follows:

Section 14.04 is hereby repealed and replaced to read as follows:

14.04 Building Inspector And Building Inspection Department

The city building inspection department is hereby created, and the designated official in charge thereof shall be known as the building inspector. The building inspector may be an employee of the city or may be contracted to perform the duties of building inspector, as approved by the Common Council.

1. **Building Inspector.** The building inspector may be an employee of the City or may be contracted to perform the duties of building inspector, as approved by council. The building inspector, whether appointed or contracted shall report to the Director of Planning and Community Development.
 1. *Appointment.* In the event that the building inspector is an employee of the city, the building inspector shall be appointed by the city council and shall not be removed from office, except for cause and after full opportunity to be heard on specific and relevant charges by and before the city council. In the event that the building inspector is contracted to perform the duties of building inspector, the contract shall be approved by the city council, and removal or termination shall be as set forth in the terms of such contract.
 2. *Qualifications.* The building inspector shall possess state certifications in the following categories: residential building and framing; residential heating, ventilating, and air conditioning; residential electric, and plumbing; and commercial building. The building inspector shall also possess the necessary qualifications to supervise the general construction and maintenance of all buildings and structures as required by state and local ordinances. The assistant building inspector and other appointed department employees shall possess necessary Department of Safety and Professional Services inspector certifications

as mandated by law and other qualifications as required by the building inspector and the city.

3. *General Powers and Duties.* The Building Inspector and his delegated assistants shall enforce the building code (Chapter 14), the zoning code (Chapter 17), the housing code (Chapter 19) and remove public nuisances (Chapter 10), all as more specifically set forth in those Chapters of this Municipal Code.
 4. *Citation Authority.* The Building Inspector and his delegated assistants shall have the authority to issue municipal citations for violations of Chapters 10, 14, 17, 19 and other sections of the Municipal Code of the City of Kaukauna that are directly related to the responsibilities of the Building Inspector or Building Inspection Office. This authority shall be exercised in substantial compliance with the requirements of Sections 800.01 and 800.02 of the Wisconsin Statutes as to the service of citations and their form and contents.
 5. *Plan Commission.* The Building Inspector shall be a member of the City of Kaukauna Plan Commission.
2. ***Code Enforcement Officer.*** The code enforcement officer shall be an employee of the City, appointed pursuant to Section 4.03. The code enforcement officer shall report to the Chief of Police.
 1. *General Powers and Duties.* The code enforcement officer and his delegated assistants shall enforce the building code (Chapter 14), the zoning code (Chapter 17), the housing code (Chapter 19) and remove public nuisances (Chapter 10), all as more specifically set forth in those Chapters of this Municipal Code.
 2. *Citation Authority.* The code enforcement officer and his delegated assistants shall have the authority to issue municipal citations for violations of Chapters 10, 14, 17, 19 and other sections of the Municipal Code of the City of Kaukauna that are directly related to the responsibilities of the Code Enforcement Officer or Building Inspection Office. This authority shall be exercised in substantial compliance with the requirements of Sections 800.01 and 800.02 of the Wisconsin Statutes as to the service of citations and their form and contents.
 3. ***Restrictions on employees.*** An official, employee, or contracted building inspector connected with the building inspection department shall not be engaged in or, directly or indirectly, connected with the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of any building within the city or the preparation of plans or of specifications thereof, unless that person is the owner of the building, nor shall such officer, employee, or contracted building inspector engage in any work which conflicts with official duties or with the interest of the city.
 4. ***Relief from personal responsibilities.*** The building inspector or other department employee charged with the enforcement of this chapter, while acting on behalf of the city, shall not thereby be rendered liable personally and the building inspector or department employee is hereby relieved of all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any department officer, employee, or contracted building inspector because of an act performed by that person in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the city until the final termination of the proceedings. The building inspector or any subordinates shall not be liable for any costs in any action, suit, or proceeding that is

instituted in pursuance of the provisions of this chapter and any officer of the building inspection department, acting in good faith and without malice, shall be free of liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

PROPOSED:

14.04 Building Inspector and Building Inspection Department

The city building inspection department is hereby created, and the designated official in charge thereof shall be known as the Building Inspector. The Building Inspector may be an employee of the city or may be contracted to perform the duties of Building Inspector, as approved by the Common Council.

- 1. **Building Inspector.** The Building Inspector may be an employee of the City or may be contracted to perform the duties of Building Inspector, as approved by council. The Building Inspector, whether appointed or contracted, shall report to the Director of Planning and Community Development.
 - 1. *Appointment.* In the event that the Building Inspector is an employee of the City, the Building Inspector shall be appointed by the City Council and shall not be removed from office, except for cause and after full opportunity to be heard on specific and relevant charges by and before the City Council. ~~In the event that~~ If the Building Inspector is contracted to perform the duties of Building Inspector, the contract shall be approved by the City Council, and removal or termination shall be as set forth in the terms of such contract.
 - 2. *Qualifications.* The Building Inspector shall possess state certifications in the following categories: residential building and framing; residential heating, ventilating, and air conditioning; residential electric, and plumbing; and commercial building. The Building Inspector shall also possess the necessary qualifications to supervise the general construction and maintenance of all buildings and structures as required by state and local ordinances. The Assistant Building Inspector and other appointed department employees shall possess necessary Department of Safety and Professional Services Inspector certifications as mandated by law and other qualifications as required by the Building Inspector and the City.
 - 3. *General Powers and Duties.* The Building Inspector and ~~his~~ ~~their~~ delegated assistants ~~shall~~ ~~may~~ enforce the building code (Chapter 14), the zoning code (Chapter 17), the housing code (Chapter 19) and remove public nuisances (Chapter 10), all as more specifically set forth in those Chapters of this Municipal Code.
 - 4. *Citation Authority.* The Building Inspector and ~~his~~ ~~their~~ delegated assistants ~~shall~~ have the authority to issue municipal citations for violations of Chapters 10, 14, 17, 19 and other sections of the Municipal

Code of the City of Kaukauna that are directly related to the responsibilities of the Building Inspector or Building Inspection Office. This authority shall be exercised in substantial compliance with the requirements of Wis. Stat. § 800.01 and 800.02 as to the service of citations and their form and contents.

- 5. *Plan Commission.* The Building Inspector shall be a member of the City of Kaukauna Plan Commission.
- 2. **Code Enforcement Officer.** The Code Enforcement Officer shall be an employee of the City, appointed pursuant to Section 4.03. The Code Enforcement Officer shall report to the Chief of Police.
 - 1. *General Powers and Duties.* The Code Enforcement Officer and ~~his~~ **their** delegated assistants ~~shall~~ **may** enforce the building code (Chapter 14), the zoning code (Chapter 17), the housing code (Chapter 19), **fire prevention (Chapter 21)**, and remove public nuisances (Chapter 10), all as more specifically set forth in those Chapters of this Municipal Code.
 - 2. *Citation Authority.* The Code Enforcement Officer and ~~his~~ **their** delegated assistants ~~shall~~ have the authority to issue municipal citations for violations of Chapters 10, 14, 17, 19, **21**, and other sections of the Municipal Code of the City of Kaukauna that are directly related to the responsibilities of the Code Enforcement Officer or Building Inspection Office. This authority shall be exercised in substantial compliance with the requirements of Wis. Stats. § 800.01 and 800.02 as to the service of citations and their form and contents.
- 3. **Restrictions on employees.** An official, employee, or contracted **Building Inspector** connected with the **Building Inspection Department** shall not be engaged in or, directly or indirectly, connected with the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of any building within the **City** or the preparation of plans or of specifications thereof, unless that person is the owner of the building, nor shall such officer, employee, or contracted **Building Inspector** engage in any work which conflicts with official duties or with the interest of the city.

(1) **Relief from personal responsibilities.** The **Building Inspector** or other department employee charged with the enforcement of this chapter, while acting on behalf of the city, shall not thereby be rendered liable personally and the **Building Inspector** or department employee is hereby relieved of all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any department officer, employee, or contracted **Building Inspector** because of an act performed by that person in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the **City** until the final termination of the proceedings. The **Building Inspector** or any subordinates shall not be liable for any costs in any action, suit, or proceeding that is instituted

in pursuance of the provisions of this chapter and any officer of the Building Inspection Department, acting in good faith and without malice, shall be free of liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

Passed and adopted by Council on the 16th day of July, 2024.

APPROVED: _____
Anthony J. Penterman, Mayor

ATTEST: _____
Sally Kenney, Clerk