

# LEGISLATIVE COMMITTEE

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



Monday, January 15, 2024 at 6:20 PM

## AGENDA

### In-Person

1. Correspondence.
2. Discussion Topics.
  - a. Adjourn to Closed Session Pursuant to State Statute 19.85(1)(c) to discuss employment, promotion, compensation or performance evaluation data of any public employee - Building Inspection and Code Enforcement Officer.
  - b. Return to open session for possible action.
  - [c.](#) Ordinance 1900-2024 - Ordinance Creating Section 8.09 and Repealing and Replacing Sections 10.07(3)(a)(b) and (c), 10.13(1), 17.56, 19.30 and 19.30(1).
  - [d.](#) Ordinance 1901-2024 Ordinance Repeal and Recreating Section 14.04 Building Inspection and Building Inspection Department.
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, January 15, 2024 at 6:20 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.**

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# MEMORANDUM

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**DATE:** January 15, 2024  
**TO:** Legislative Committee  
**FROM:** Attorney Kevin Davidson  
**RE:** ORDINANCE CREATING SECTION 8.09 AND REPEALING AND REPLACING SECTIONS 10.07(2), 10.07(3)(a)(b) and (c), 10.13(1), 17.56, 19.30 and 19.30(1)

The Ordinance presented is an update to our Municipal Code to align with removing the Code Enforcement Officer ("CEO") from under the Director of Planning and Community Development.

The current code does not provide full authority required for a CEO to inspect properties, take enforcement action, or issue citations without direct oversight of either the Director of Planning and Community Development or the Building Inspector.

With anticipation of moving the CEO under the supervision and authority of the Kaukauna Police Department, these revisions to the code will or allow for full functionality as an enforcement officer upon hire of a CEO.

**Recommendation:** Recommend to Common Council for adoption Ordinance Creating Section 8.09 and Repealing and Replacing Sections 10.07(2), 10.07(3)(a)(b) and (c), 10.13(1), 17.56, 19.30 and 19.30(1).

## ORDINANCE NO. 1900-2024

### ORDINANCE CREATING SECTION 8.09 AND REPEALING AND REPLACING SECTIONS 10.07(2), 10.07(3)(a)(b) and (c), 10.13(1), 17.56, 19.30 and 19.30(1)

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

WHEREAS, many sections of the City of Kaukauna Municipal Code allow for the Police Department or the Building Inspector to enforce such codes, but do not allow for the Code Enforcement Officer to do such duties;

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

Sections 8.19, 10.07(2), 10.07(3)(a)(b) and (c), 10.13(1), 17.56, 19.30 and 19.30(1) are hereby created and/or repealed and replaced to read as follows:

#### **8.19 Enforcement.**

The Director of Public Works or his or her designee shall have the authority to enforce the provisions of this Chapter. The Code Enforcement Officer shall additionally have authority to enforce Section 8.08.

#### **10.07 Storage Of Junk Vehicles**

1. No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles shall be stored or allowed to remain in the open upon public or private property within the city for a period in excess of three consecutive days, unless it is in connection with an automotive sales or repair business enterprise located in an area zoned to allow for such business use. Any violation of this subsection is declared to be a public nuisance.
2. Whenever an officer of the police department or the building inspector or code enforcement officer shall find any such vehicles placed or stored in the open upon public property within the corporate limits of the city, he shall cause such vehicles to be removed by a junkyard or salvage yard and stored in such junkyard or salvage yard for a period of 30 days, at the end of which time such junkyard or salvage yard shall dispose of the vehicles unless previously claimed by the owner. In order to correctly claim the vehicles, the owner must pay all reasonable removal and storage costs applicable to such vehicles.
3. *Storage upon private property within the city; notice.*
  - a. Whenever an officer of the police department or building inspector or code enforcement officer shall find any such vehicles placed or stored in the open upon private property within the corporate limits of the city, he shall

notify the owner or the occupant/tenant of the premises upon which such vehicles are placed or stored or notify the owner of the vehicles of the violations of this section. If the vehicles are not removed within five days of delivery of notice, as provided in subsection (3)(b) of this section, an officer of the police department shall cause a citation to be issued to the person who had been so notified. Each such vehicle shall constitute a separate violation, and each succeeding day that such vehicle is not removed shall be considered a separate violation.

- b. Notice shall be served upon any or all of the vehicle owners, the premises owner, or the occupant/tenant of the premises upon which the vehicle is located, provided that the notice shall be deemed properly served upon such vehicle owner, premises owner or occupant/tenant of the premises either by mailing a copy to such person's last known address or by delivering a copy to such person or the registered agent of the property personally or, if not found, by leaving a copy at such premises in the presence of some competent member of the family at least 14 years of age, who shall be informed of the contents thereof. It shall be deemed sufficient notice to the vehicle owner if a copy of the notice is mailed to the last known address of the vehicle owner as identified by the record of the state department of transportation. It shall be deemed sufficient notice to the premises owner if a copy of the notice is mailed to the last known address of the premises owner as identified by the **inspecting officer** as the case may be. When service has been completed as prescribed in this subsection, the notice shall be effective as to anyone having an interest in the vehicle or premises, whether recorded or not, at the time the notice was issued and shall be effective against any subsequent owner of the vehicle or premises as long as such violation exists and there remains a city record of the notice in a public file maintained by the police department or the building inspector.
- c. If such vehicle is not removed within 20 days after issuance of a citation to the registered owner of the vehicle, the chief of police or building inspector **or code enforcement officer** shall cause the vehicle to be removed and impounded and it shall be disposed of as prescribed in section 10.06 by the chief of police or his duly authorized representative.
- d. Any costs incurred in the removal, storage, and sale of the vehicle shall be recovered from the sale proceeds or charged to the registered owner of the vehicle or the owner of the premises as follows:
  1. If the citation was issued to the registered owner of the vehicle, from the owner.
  2. If unable to identify or to locate the vehicle owner, and the citation was issued to the owner of the premises, this charge, if unpaid as of the November 1 following billing of costs incurred to the real property owner, shall be handled as a special charge on the tax roll.

### **10.13 Abatement Of Public Nuisances**

1. *Enforcement.* The chief of police, the fire chief, building inspector, **code enforcement officer**, and health officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or cause to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does, in fact, exist.

### **17.56 Penalty**

Any person who violates any provision of this chapter, or any order, rule, or regulation made under this chapter, shall be subject to a penalty as provided in section 25.04. In floodplain districts, violators shall be subject to penalties as provided in Wis. Stats. § 87.30. Whenever a person shall have been notified in writing by the building inspector **or code enforcement officer** that he is in violation of the provisions of this chapter, such person shall commence correction of all violations within seven days after notice and shall correct all violations within 30 days after notice. If corrections are not commenced within seven days of written notice, each day that a violation continues shall be considered a separate offense.

### **19.30 Prosecutions**

The building inspector **or code enforcement officer, as the case may be**, shall take the necessary action to see to it that violations of this chapter are prosecuted in the municipal court. However, nothing in this chapter shall preclude the building inspector **or code enforcement officer, as the case may be**, from commencing actions directly under Wis. Stats. § 66.0413, under local ordinances relating to the abatement of nuisances, or under Wis. Stats. § 823.02 ~~or 823.33~~. In any court action or legal proceeding, any error, oversight, or declaration of duty on the part of the building inspector **or code enforcement officer, as the case may be**, shall not constitute a defense.

1. *Notice of violation and order.* As a complete alternative to the direct commencement of a court action, the building inspector **or code enforcement officer** may serve a notice of violation and order on the owner or any person responsible for the use or occupancy of a building or structure in violation of the provisions of this chapter. If a notice of violation and order is not complied with promptly, the building inspector shall see to the enforcement under this subsection. Where circumstances warrant, the building inspector **or code enforcement officer** may grant reasonable extensions of time for the completion of any remedial action required.
  - A. The notice and order provided for herein shall:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Specify the violations which exist and the remedial action required.
- (4) Allow a reasonable time for the performance of any act it requires.
- (5) Include a copy of the appeal procedure.

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

APPROVED: \_\_\_\_\_  
Anthony J. Penterman, Mayor

ATTEST: \_\_\_\_\_  
Sally Kenney, Clerk

**CITY OF KAUKAUNA  
ORDINANCE 1901-2024**

**ORDINANCE REPEAL AND RECREATING SECTION 14.04 BUILDING  
INSPECTION AND BUILDING INSPECTION DEPARTMENT**

**WHEREAS**, the City of Kaukauna conducted an analysis of the different departments in 2022; and

**WHEREAS**, under the newly structured Planning Department, it was determined that the Building Inspector and Building Department staff would report directly to the Planning Director; and

**WHEREAS**, that a Code Enforcement Officer was appointed in 2022 and the current code does not adequately state the powers of said position;

**WHEREAS**, that the City of Kaukauna Common Council believes it would be most advantageous for the Code Enforcement Officer to report directly to the Chief of Police;

**NOW THEREFORE**, be it ordained by the Common Council of the City of Kaukauna, in the State of Wisconsin, as follows:

**SECTION 1:            AMENDMENT** “14.04 Building Inspector And Building Inspection Department” of the City of Kaukauna Municipal Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

**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. *Department head.* In the event that the building inspector is an employee of the city, the building inspector shall be a department head and shall be fully covered as a full-time employee.
2. *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.

3. *Organization.* The building inspector shall appoint such number of officers, technical assistants, inspectors, and other employees as shall be necessary for the administration and enforcement of this chapter and as authorized by the city council.
4. *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.
5. *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.
6. *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.

(Code 2011, § 14.04)

## AFTER AMENDMENT

### 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. ~~*Department head.* In the event that the building inspector is an employee of the city, the building inspector shall be a department head and shall be fully covered as a full-time employee. *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. *Organization.* The building inspector shall appoint such number of officers, technical assistants, inspectors, and other employees as shall be necessary for the administration and enforcement of this chapter and as authorized by the city council. *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.~~

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.

a. *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.

b. *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.

c. *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.

- d. 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.
  - e. 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.
- a. 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.
  - b. 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.

(Code 2011, § 14.04)

PASSED AND ADOPTED BY THE CITY OF KAUKAUNA COMMON COUNCIL

Presiding Officer

Attest

\_\_\_\_\_  
Anthony J. Penterman, Mayor, City of  
Kaukauna

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Sally Kenney, Clerk, City of  
Kaukauna