

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Sections 8.19, 10.07(2), 10.07(3)(a)(b) and (c), 10.13(1), 17.56, 19.30 and 19.30(1) are hereby created and/or repealed and replaced to read as follows: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