

# Regulatory Ordinances & Their Enforcement



Bakke Norman Municipal Seminar

New Richmond, WI - April 5<sup>th</sup>, 2012

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# Today's Agenda

- What is an ordinance?
- Legal/regulatory authority
- Some specific examples
- Citations
- Injunctions
- Enforcement
- Municipal prosecutor
- Municipal court
- Collection

# What is an ordinance?

- An ordinance is a law of the local jurisdiction.
  - (Similar to a state statute being a law of the state.)
  - Different than a motion or resolution.
- Who has to follow an ordinance?
  - Everyone within the jurisdiction.
- Procedure (need to check the statute):
  - Standalone.
  - Code of Ordinances. s. 66.0103.
  - Notice requirements before & after passage.
  - Public hearings possible.

# Legal/Regulatory Authority

- Towns & Counties are statutory bodies.
  - Either explicit statutory language or necessarily implied from a statute.
- Towns can acquire statutory home rule.
  - I.e., village powers. s. 60.10(2)(c).
  - Public health, safety & general welfare.
- Cities & Villages have constitutional & statutory home rule.
  - ss. 61.34 & 62.11(5); Wis. Const. Art. XI s. 3.

# Some specific examples

- Weight limits, ss. 349.15 & 349.16.
- Speed limits, ss. 346.57 & 349.11.
- No parking, s. 349.13.
- Public nuisance, ch. 823.
- Boating, s. 30.77.
- Driveway permits, ss. 66.0425 & 86.07.
- Building permits, UDC; ad hoc.
- Utilities in the highway right of way, ss. 86.16, 182.017 & 196.58.
- Zoning, ss. 59.69, 60.61, 60.62, 62.23.
- General Licensing, i.e. for frac sand, etc.

# Citations

- Can be a long form complaint.
- Can be from a citation booklet.
- Must have identifying marks and be numbered.
- Someone has to either just pay the forfeiture or choose to challenge the citation in court.
- Never just goes on a tax bill if unpaid!

# Injunctions

- A court order to do or stop doing something.
- Law enforcement help recommended for some situations.
- Contempt of court (court enforcement).

# Enforcement

- 2 years statute of limitation. s. 893.93(2)(b).
- Defendant cannot attack procedure of adoption after 3 years. s. 889.04.
- Citation authority ordinance, s. 66.0113.
  - Municipal officers.
  - Municipal employees.
  - Contractors.
- County Sheriff's Department:
  - AG Op: *Zweig Correspondence* 5/17/01.
  - Recommend listing in cit. auth. ordinance anyway.



# Municipal Prosecutor

- County District Attorney's Office.
  - Can, but does not have to.
- Employ one on municipal staff.
- Hire a private attorney.

# Municipal Court Ch. 755

- Up to town, city or village to create.
- Can have joint municipal courts.
- Judge is an independently elected officer and in charge of the court itself, although municipality pays for the court.
- Municipal courts are in the Judicial or Third Branch.

# Collection

- Collecting a judgment:
  - Lien on property;
  - Garnishment of wages;
  - Gain interest when unpaid;
  - Good for 10 years.
- Often need attorney's help with this.
- Tax Refund Intercept Program (TRIP)
  - Dept. of Revenue, s. 71.935.
- Collection agencies. s. 755.21.

# The End

- Local control = local responsibility.
- An ounce of prevention is less costly than:
  - a pound of reconstruction;
  - no peace in your community; or
  - even someone's life!
- Thanks for coming.