

ORDINANCE NO. 1380

AN ORDINANCE REPEALING ORDINANCE NUMBER 1338 AND PROVIDING FOR AUTHORIZING THE SHORT-FORM UNIFORM COMPLAINT AND CITATION METHOD FOR MINOR OFFENSES IN THE MUNICIPAL COURT; EXTENDING THE UNIFORM CITATION AND COMPLAINT SYSTEM; AND AUTHORIZING THE CITY TO ISSUE SAID SHORT-FORM UNIFORM COMPLAINT AND CITATION.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby repeals Ordinance Number 1338, in its entirety.

Section 2. Title

This ordinance shall be known as the "Short-Form Complaint and Citation Ordinance."

Section 3. Purpose and Scope

- A) This ordinance authorizes the use of a short-form uniform complaint and citation in certain cases by certain city employees and describes the content of the form.
- B) This ordinance describes the procedures for use of complainant, court, or defendant.

Section 4. A citation conforming to the requirements of this section may be used by: the building inspector and the code enforcement officer to enforce any of the provisions of the Building, Sign, Nuisance, Zoning, Bench, Business-License ordinances; by the animal control officer to enforce any of the provisions of the Animal Control or related ordinances; and by any sworn police officer to enforce all of the aforementioned provisions, for citing any violations thereof.

Section 5. Citation shall consist of at least three parts: the complaint; department record; and the summons. Additional parts may be inserted for administrative purposes by departments charged with the enforcement of the ordinances. Each of the three parts shall contain the following information, or blanks in which such information may be entered:

- A) The name of the court and the court's docket or file number.
- B) The name of the person, or persons, cited.
- C) The offense charged; the time and place; the date on which the citation was issued; the name of the complainant; and in the case of zoning violations, the designation of the zone in which the violation occurred.
- D) The hour and date when the person cited is to appear in court.
- E) The bail, if any, fixed for the offense.

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Section 6. Each of the parts may also contain such identifying and additional information as may be necessary or appropriate for administrative departments of the City. In the case of an appropriate violation, it may include an indication of whether a written warning was previously issued to defendant for the same violation if it is a continuing one.

Section 7. The complaint shall contain a form of verification by the complainant to the effect that he swears that he has reasonable grounds to believe, and does believe, that the person committed the offense contrary to ordinance.

Section 8. Nothing in this section shall be construed to prevent the use of a complaint charging a violation of ordinance in a form or manner otherwise prescribed by law for criminal complaints; further, as provided by law, two or more persons may be charged jointly on such a complaint.

Section 9. A summons issued pursuant to this ordinance is sufficient if it contains the following information:

- A) The name of the court; the name of the person or persons cited; the date on which the citation was issued; the name of the complainant; the time at which the person cited is to appear in court.
- B) A statement or designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so; and the date and place of offense alleged to have occurred.
- C) The amount of bail, if any, fixed for the offense.

Section 10. A complaint of an alleged violation or an offense under this ordinance is sufficient if it contains the following:

- A) The name of the court; the name of the city in whose name action is brought; and the name of the defendant or defendants.
- B) A statement or designation of offense in such manner as can be readily understood by a person making a reasonable effort to do so; and the date and place of the alleged offense.

Section 11. Delivery of summons and citation. Any person authorized under this ordinance issuing citation and summons shall cause summons to be delivered to the person cited and cause the citation thereafter to be delivered to the court.

Section 12. The defendant shall either appear in court at the time indicated in the summons; or prior to such time, deliver to the court the summons together with the bail amount set forth in the summons, enclosing therewith a request for a hearing, or statement of matters and explanation or mitigation of the offense; or an executed appearance, waiver of hearing and plea of "guilty" appearing on the summons.

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Section 13. If defendant has submitted to the court a written statement with his bail, as provided above, it constitutes a waiver of hearing and a consent to judgment by court, declaring a forfeiture of bail on the basis of such statement and any testimony or written statement of the arresting officer or other witness, or city employee as provided in Section 1 above, which may be presented to the court. If the defendant requests a hearing or if the court directs that hearing be had, the court shall fix the date and time of hearing and unless notice is waived, mail to the defendant notice of the date and time so set at least 5 days prior to the trial date.

In any case, the court may direct that a hearing be held; otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by the defendant, and remit to the defendant any amount by which the bail exceeds the fine. No sentence to jail may be imposed, nor any fine imposed in excess of the bail deposited by the defendant, unless a hearing is held.

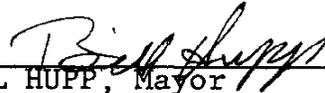
If a person cited fails to comply with the provision of this ordinance, or if he fails to appear at any time affixed by the court, a warrant for his arrest may be issued. No warrant of arrest may be issued after a period of sixty (60) days from the trial date.

Nothing herein shall be construed to prevent the issuance of a warrant of arrest on the filing of a complaint complying in all other respects with the provisions of the ordinance and charging a violation of the ordinance in the presence of an officer or citizen making the arrest.

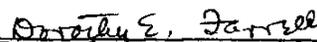
Read the first time this 21st day of November, 1977, and moved to a second reading by majority vote of the City Council.

Read the second time and adopted by the City Council this 19th day of December, 1977.

Signed by the Mayor this 19th day of December, 1977.


BILL HUPP, Mayor

ATTEST:


Dorothy E. Farrell, Recorder

APPROVED AS TO FORM

Myer Avedovech, City Attorney