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CAVALIER JOHNSON
ALDERMAN, 2ND DISTRICT

Newly enacted state law yet another power grab

Statement of Alderman Cavalier “Chevy” Johnson June 12, 2018

As Milwaukee strives to improve the beauty of our neighborhoods, state lawmakers have once again foisted a power grab upon us. The recently-enacted Wisconsin Act 317 would delay the City’s efforts to abate quality of life issues in our community.

This statute requires the City to notify a property owner via first class mail (or e-mail if provided) to mow their tall grass or remove curbside, bulky debris. The state law also mandates an impractical deadline for response which would further hamper cleanup efforts. This eliminates the previous, successful practice of the City posting a notice then tending to the eyesore and charging a special assessment fee if there was no compliance.

In addition to delaying clean-up of problem areas, the Office of the City Attorney (reference attached) found that Wisconsin Act 317 adds postage costs to our efforts to hold violators accountable and amounts to an unfunded mandate.

In a time when City Departments, the Common Council and community members work to enhance neighborhoods through sound policy, agency coordination and neighborhood clean ups – the last thing we need is another burdensome law coming from the state Legislature: one that tells us literally how to keep our yards clean.

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Department of Public Works
Operations

Ghassan Korban, P.E.
Commissioner of Public Works

Laura Daniels
Director of Operations

To: Mayor Tom Barrett
Members of the Milwaukee Common Council

From: Ghassan Korban, P.E. Commissioner of Public Works **GK**

June 8, 2018

RE: Wisconsin Act 317 and attached is the City Attorney's opinion dated May 25, 2018, on Impact of 2017 WISCONSIN ACTS 243 and 317 as it relates to DPW and restrictions on imposing fees or charges.

The City may no longer impose a fee or charge for certain services without first notifying the person against whom the charge will be imposed under Act 317, Section 20: by first-class mail or e-mail, if provided, for non-owner occupied properties.

Therefore, posting of violations/charges alone are no longer legal for non-owner occupied properties, thus delaying the City's ability to cite and abate the violation sooner than reasonable notice by first-class mail allows.

The City Attorney's office has advised that reasonable notice for first-class mail delivery to City, State and out-of-State addresses, including time to cure, is not less than five (5) business days.

For example:

1. Bulky items in the right of way

Debris at the curb line in excess of two cubic yards for a non-owner occupied duplex.

Prior to ACT 317, a Sanitation Inspector would post the property with the violation and allow up to 72 hours to properly dispose of the items such as taking it to one of the City's two drop off centers. After 72 hours, Sanitation would abate the violation and charge the property owner a special assessment fee.

Going forward, Act 317 requires the notice to be mailed via first-class mail to the owner, or e-mail if provided and allow at least five (5) days



before Sanitation Services can abate the debris and assess fees.

2. Tall weeds and grass

Prior to Act 317, tall weeds and grass violations were noticed by posting the property and allowing 72 hours to correct. Upon re-inspection, tall grass and weeds not abated were sent to the contractor for mowing and generally abated within 4-7 days' of the posted notice. Under Act 317, the process including a first-class mailing will be 7-10 days from the dated notice, effectively extending the abatement time frame.

We have been advised that disregard of this law leaves the City open to possible class action lawsuits, which may result in fees and fines being refunded to all who were cited without proper notice. Therefore, DPW by abiding by this notice requirement of first-class mail or e-mail notice, will require a 5 day waiting period before remediation and fees are imposed. Specifically exempted from Act 317 are:

1. Clearing of snow and ice from sidewalks.
2. Violations that pose an immediate danger to public health, safety or welfare.

Unfortunately, requests to correct violations without proper notice would result in the City absorbing the costs of the service without the ability to cite and charge responsible parties resulting in substantial negative budgetary impacts.

In addition, we anticipate increased administration time to incorporate preparation and processing of timely mailings and adherence to timelines before processing special assessment fees. The code of Ordinances will need to be amended to be aligned with the State Statutes, with possible fee adjustments.

We will be submitting a communication file to the CC Public Works Committee to discuss these State Statute changes and impacts to our operations. However, in the interim, if you have questions or concerns, please contact Laura Daniels, DPW Operations Director.

Attachment: City Attorney letter

Cc: Dennis Yaccarino, Kail Decker

GK:LD:mv