

## Ordinance No. 2010-01

### An Ordinance Amending Section 2-7-1(d) of the Municipal Code Establishing a Fee for Service of Warrants or Commitment Orders

The Common Council of the City of Cedarburg, Wisconsin, does hereby ordain as follows:

SECTION I: Authority. This Ordinance is adopted pursuant to the provisions of Wis. Stats. §§ 814.70, 814.705, and 814.71.

Purpose. On November 18, 2009 the Attorney General for the State of Wisconsin rendered an opinion, identified as OAG-8-09, that a municipal plaintiff is allowed to tax costs against the defendant in municipal court for actual service or execution by its municipal personnel of each warrant or commitment order issued by its municipal court in a legal action. The purpose of this Ordinance is to implement the authority recognized by the Wisconsin Statutes and the Attorney General.

Pursuant to s. 814.70 s. 814.705, and s. 814.71 of the Wisconsin Statutes, Section 2-7-1(d) of the City of Cedarburg Municipal Code is hereby amended to read as follows:

(d) **Service Fees.**

1. Service Fees. Pursuant to the provisions of ~~Sections~~ Wis. Stats. §§ 814.70, 814.705 and 814.71 of Wis. Stats., on behalf of the City of Cedarburg, the Mid Moraine Municipal Court, of which the municipality is a member of, shall charge a \$50.00 warrant and commitment order service fee for all warrants or orders issued. Upon the Municipal Court's receipt of payment, the City of Cedarburg shall receive \$25.00 of the fee and the Mid Moraine Municipal Court shall receive \$25.00 of the fee. The City Police shall collect the fees. the City of Cedarburg Police Department shall charge a service fee of \$35 when the City Police serve a warrant or commitment order upon a person. The person served with the warrant or commitment order shall be responsible for the payment of the warrant or commitment order service fee. The service fee may be collected as a court cost through the court.
2. Multiple Warrants. ~~If there is more than one defendant or person to be served at a given address, the warrant or commitment order service fee shall apply to each person served. If the person has warrants or commitment orders from multiple jurisdictions, the fee shall be assessed with regard to each such warrant or commitment order. The City of Cedarburg Police Department shall charge a separate fee for each warrant or commitment order served on a person.~~
3. Disposition of Fees. ~~All warrant or commitment order service fees that are forwarded by the Municipal Court to the City of Cedarburg shall be deposited in the City's General Fund. Upon collection by the court, all warrant or commitment order service fees shall be forwarded by the court to the City of Cedarburg Treasurer.~~

4. Severability. It is hereby declared to be the legislative intent that should any provision of this Ordinance be declared invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance. Furthermore, the relevant court of competent jurisdictions is authorized to substitute for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.
  
5. Implementation. All ordinances or parts of ordinances of the City of Cedarburg consistent with or contrary to this Ordinance are hereby repealed. The City Clerk is authorized and directed to take all action necessary to incorporate this Ordinance into the City of Cedarburg Code of Ordinances without further authorization.

SECTION II: This ordinance shall be effective upon passage and publication as provided by law.

Passed and adopted this 25<sup>th</sup> day of January, 2010.

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Gregory P. Myers, Mayor

Countersigned:

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Constance K. McHugh, City Clerk

Approved as to form:

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Kaye K. Vance, City Attorney