



MEMORANDUM

Date: September 25, 2011

To: Personnel Committee
From: Pamela A. Captain, City Attorney

RE: Personnel Policy Handbook, ARTICLE XIX – Disciplinary Procedures
(Concealed Carry – 2011 Wisconsin Act 35)

You are aware that various changes were made to Wisconsin state statutes regarding possessing and carrying weapons. As a result of the statutory changes there are some personnel policy changes that are necessary.

Under ARTICLE XIX, paragraph V, City employees are prohibited from “Possessing weapons or explosives of any type on City property without City authorization.” This policy is in direct conflict with the newly enacted 2011 Wisconsin Act 35. Under the new law, the City may prohibit an employee from carrying a weapon (concealed or not) while on the job, however the City cannot prohibit an employee, who is licensed, from carrying a concealed weapon in his/her own motor vehicle even if it is on City property and even if the employee’s vehicle is used for city business (this does not apply to city-provided vehicles). *See* §175.60 (15m), Wis. Stats., attached for your convenience.

Second, the City may also consider modifying the personnel policy that will prohibit employees, who are licensed under Wisconsin statutes to carry a concealed weapon, as a condition of employment, from carrying a concealed weapon on the job. Currently, the City’s personnel policy prohibits employees from possessing weapons or explosives, whether concealed or not concealed, of any type, on City property, without authorization. As mentioned above, under the new law, the City may, but is not required to, prohibit an employee who is licensed from carrying a concealed weapon while on the job. There is a new immunity that exists for employers (including the city) that decide not to prohibit such action.

A weapon is defined under §175.60(1)(j) as a “...handgun, an electric weapon, as defined in s. 941.295(1c)(a), a knife other than a switchblade knife under s. 941.24, or a billy club.” In order to be licensed under Wisconsin law to carry a concealed weapon, the person must undergo an application process, background check and training requirements.

CONCLUSION:

1. To be consistent with the statutory change the personnel policy should be modified as follows: Possessing weapons or explosives of any type on City property without City authorization except as allowed under §175.60, Wis. Stats.

- By making this change employees will not be prohibited from (1) carrying a concealed weapon if licensed and in compliance with §175.60, Wis. Stats. and (2) carrying or storing a concealed weapon, if licensed, in their own motor vehicle, even if it is used for City business or in City parking facilities.
2. Alternatively, if it is desired to continue to prohibit employees from carrying a concealed weapon, even if licensed to do so under §175.60, Wis. Stats., the following change to the personnel policy is nonetheless required: Possessing weapons or explosives of any type on City property without City authorization. This provision does not prohibit an employee, who is licensed under §175.60, Wis. Stats., as a condition of employment, from carrying a concealed weapon or ammunition or from storing a weapon or ammunition, in the licensee's own motor vehicle, regardless of whether the motor vehicle is used in the course of employment or whether the motor vehicle is driven or parked on property used by the City. By making this change, employees will continue to be prohibited from possessing weapons on City property, even if licensed to carry a concealed weapon, without City authorization, except in the employee/licensee's own motor vehicle.

I am requesting that either option 1 or option 2 be forwarded to the common council for approval.