



POLICE DEPARTMENT

222 South Walnut Street • Appleton, WI 54911-5899
(920) 832-5500

To: Alderperson Siebers, Safety and Licensing Committee Chairperson
From: Chief Todd Thomas
Date: September 21, 2020
Subject: Resolution #15-R-20 Marijuana and Drug Paraphernalia Citations

This information is being provided to assist the council in its decision making on the above resolution.

Municipal Citations

Adult (including 15-17 year olds) Possession of marijuana and possession of paraphernalia

- ❖ 1st \$389.50 , 2nd \$452.50, 3rd \$515.50 (\$200, \$250, \$300 fines plus court costs, respectively)
- ❖ 2nd and 3rd must have a violation date within the previous 12 months, with is extremely rare

Juveniles (age 12-14 year olds) is \$143.80 (\$5.00 plus costs).

Our School Resource Officers also use informal dispositions, holding the ticket open and using an informal probation period. If the child follows the agreed on plan the citation is dismissed and considered never issued.

In 2019 we issued 157 municipal citations for possession of marijuana, 31 of the 157 were to juveniles, or 19.7%.

Prosecution – by Assistant City Attorney

If a defendant appears, then they are given the option to attend an AODA assessment, at their cost. If they complete the assessment and follow through with all recommended treatment, then the Assistant City Attorney will dismiss the citation.

If a defendant does not appear, then they are found guilty by default and the total amount is due to the court. If the defendant fails to pay the amount to the court, then they may be sent to collections and their driving privileges could be suspended by WI DOT. For juveniles who do not have driving privileges, their license can be suspended when they obtain their driving privileges, which can be months or years after they are found guilty.

AODA Assessment - I contacted three providers of services and was provided the following costs;

1. \$336 for 2 ½ hours – if they have no insurance it is \$168. If have financial challenge they are referred to the County Human Services Department for Assistance.
2. \$325 for 2 hours – can get assistance from Human Services Department
3. \$459 for 1 ½ - \$344 if no insurance – can get assistance from Human Services or they have internal payment plan and internal funds to assist.

Core Values of the Appleton Police Department: "Compassion, Integrity, Courage"



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Criminal Referrals – To District Attorney Office

Almost all the cases referred include other charges – the possession charge is in addition to other more serious charges.

Those ages 17-20 are sent through a diversion program, similar to how municipal citations are handled.

Second and subsequent offences usually have multiple referrals for other things.

The goal is to get them into treatment. The District Attorney believes, and we concur, that repeated marijuana usage can frequently lead to other addiction issues and increased criminal activity.

Juvenile Intake criminal referrals (16 and under)

The referrals to Juvenile Intake are very rare, and similar to referrals to the District Attorney, there are usually more serious charges or a history of referrals for the juvenile.

In the past 20 months there have only been 38 referrals for Possession of marijuana, 10 were counseled and closed out, and five others entered deferred prosecution agreements. Of the remaining 21 referred only two were first time offenders; both were for possession on school grounds and had additional behavioral concerns that impacted the referral. All the others had multiple previous referrals and eight of the 21 had five or more previous referrals.

Comparable Municipalities

ACA Glad obtained the fine amount used by other similar sized cities. The lowest was Madison at \$124, the next lowest were Stevens Point and Wausau at \$187, Fond du Lac was \$439 and Green Bay \$502. Those municipalities have their own municipal courts, the fine amounts are \$50, \$100, \$300, and \$350 respectively.

Summary

The enforcement of this ordinance is not a high priority, but it is important to address the behavior to intervene in other potential issues. We share the philosophy our progressive criminal justice partners have: our goal for minor offenses is to give them the incentive to get an assessment so we can divert them from the criminal justice system. The focus on diversion and education for minor offences has been in place for years, for both municipal citations and criminal referrals.

As long as there are federal and state laws in place a municipal ordinance, with appropriate consequences, gives us the option of a lower level sanction to encourage treatment without creating a “criminal” record. Without an ordinance that has an appropriate consequence our only other option to encourage them to get an assessment would be a criminal referral. A criminal referral would lead to higher costs to the individual and a less timely response.



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We believe the amounts recommended in the resolution would be too low to encourage individuals to appear in court and take advantage of the AODA diversion, but we do support a lowering of the fine amount. Setting the fine amount at the level in the resolution would lead to more people paying a fine, which would be entered as a conviction in CCAP and a lost opportunity for AODA intervention.

The Police Department would also recommend that all citations for these offences include the fine amount along with a requirement for a **mandatory appearance**. This will increase the number of defendants who will take advantage of AODA treatment for dismissal of the citation and provide the opportunity for the Judge to use discretionary and alternative sentencing.

Below are what some of the most commonly used ordinances currently have for fine amount's for comparison purposes.

\$5 (\$143.80)

Bike on Sidewalk
No light on Bicycle

\$25 (\$169.00)

Curfew
Animal at large
In Park after hours
Loitering on public grounds

\$50 (\$200.50)

Underage Drinking
Shoplifting
Public Urination
Loud and Unnecessary noise

\$100 (\$263.50)

Disorderly Conduct
Obstructing an Officer
Damage to Property
Trespass to Dwelling

\$150 (\$326.50)

Carrying Concealed Weapon
Misuse of 911
Tattoo Violations
Inspection Code violations

Please let me know if there is any other information you need.

Chief Todd Thomas