September 13, 2021

Fellow Charter Commissioners,

If we voted tonight, then I would vote to reject this amendment to Section 6.03 of our Charter.

I'm unconvinced this amendment will achieve its stated goals, and unconvinced that the City is prepared for the unintended consequences of the amendment.

This Commission *has heard* that it's *harder* to take *some kinds* of action on *some kinds* of businesses, like landlords, restaurants, and contractors. And the code is weird: it's a misdemeanor to have an unlicensed dog in Saint Paul, which is stricter than Minnesota law. So civil penalties *may be* another tool, to help the City *in some cases*.

But the City is proposing to amend the Charter – and *then* add a new, large body of penalties and procedures – that only realistically apply to a *small part of the code* and a *small number of offenders*. I'm unconvinced that civil penalties will "...significantly reduce the number of criminal citations issued..." to "...allow the City to reach its compliance goals..." to say nothing of *whether fines are a deterrent at all*.

City Council resolution 21-720 states that civil penalties will "...allow the City to reach its compliance goals..."

The City has not shared its goals with this Commission, so we don't not know whether civil penalties will help the City reach its compliance goals.

The City *has said* that about 80% of violations are voluntarily complied with, and that about 80% of the remainder comply after a first notice. This means that only 4% of violators don't comply.

Nearly everybody follows the law – only a few don't. So this proposed change to the Charter should *clearly demonstrate* how it will get *those few* offenders to follow the law.

The City writes that the "...primary intent of creating an administrative citations tool is to significantly reduce the number of criminal citations issued"

The City wrote that it issues about 150 criminal citations every year, 80% of which are animal infractions. But the City has not shared what it means to "significantly reduce" this number.

And the City said the addition of civil penalties <u>would not</u> keep them from pursuing criminal citations; they can still charge a crime. So adding civil penalties doesn't "decriminalize the code" as many wish.

The City wrote that people with criminal records face barriers including discrimination, in education, jobs and housing. But the City has not connected these *real challenges* to the kinds of crimes it wants to reduce. I'm unconvinced that 120 misdemeanor animal citations damage our community of over 300,000 people.

City Council resolution 21-720 states that "...for many ordinances, the <u>only</u> enforcement tool is a criminal citation"

There are about fifty (50) ordinances in the Legislative Code where a misdemeanor *could* change to a civil penalty. But virtually *every ordinance* has *non-criminal* enforcement methods *other than* a criminal citation to encourage the remaining 4% of us follow the law.

The City issues warnings, notices, and orders. And nearly everything in the City requires a license, certification or recertification, inspection, permit or approval; which can all be denied, disapproved, revoked, have additional conditions added, services discontinued, and in many cases can *already have fines levied* for noncompliance.

The City does levy *non-criminal* fines: up to $100 for not removing snow and ice from sidewalks; between $10 and $75 dollars for illegal bill posting; $25 for not separating recyclables; can charge restitution for tree damage; can charge home inspectors a fee for late Truth-in-Sale reports; penalize hotels for tax filing failures; and charge large building owners $200 if they don't submit data to the energy benchmarking program.

The City *has already written ordinances* to impose "administrative fines" for violations of the City Minimum Wage law; for Public Health, Safety and Welfare laws, including Earned Sick and Safe Time; and to anybody providing Conversion Therapy or Reparative Therapy to a minor. For clarification, violations of these laws are <u>not</u> a crime in Saint Paul.

The City mostly uses *many, different* non-criminal enforcement tools to encourage us to follow the law.

City Council resolution 21-720 states that administrative fines will "...alleviate pressure on City prosecutors..."

If the City has a heavy legal workload, then adding a new, large body of ordinances – along with a new enforcement system – will not reduce this workload. The City has budgeted four new staff positions, but otherwise has not said or written anything about this pressure on prosecutors, or how more employees will alleviate it. For example, we don't know what work capacity the new staff will have now or in the future.

The City said that civil penalties "...are not a revenue collection measure"

But it's unclear exactly what these new penalties will do to the City's budget. Either it will run a big deficit, or these new fees will be a big revenue source. Neither outcome is likely to make us happier.

The City writes that other cities have administrative fines

Saint Paul is a Home Rule city where we can make our own laws if they are consistent with State law. It doesn't matter what other cities are doing with their laws. We shouldn't change something simply because others are doing it.

The City wrote that the *current law* has had unintended consequences

Because we know laws don't always work as they were designed to work. The City held three Community Engagement Sessions and met with the Business Review Council. But the Commission hasn't received the outcome of those meetings; we don't know who attended them; and I can't find any information on the City website. So we don't know what the community said, or how the City included that information in this amendment.

However, we *have heard* great input from the public. Many people – both for and against the amendment – have testified about the ways people will behave after it's a law. Some think that fines on individuals will reduce inequities and decriminalize minor offenses. Others think that fines on businesses will simply be passed on as costs to customers.

And after listening to all of it, though, I don't know what will happen.

The City operates a large, $700 million budget, and it considers *all kinds* of things that *could happen* in the future, like changes in demographics, health, transportation, housing, our economy, environment and land uses. And with that knowledge it plans for our future. Let's know what *could happen* and how the City will manage the unintended consequences of this proposal.

Conclusion

For all these reasons, I am not ready to approve this amendment right now.

John Paul (Jack) Kirr, Charter Commissioner