

ORDINANCE

An Ordinance to amend Section 14.560 of the Manitowoc Municipal Code regulating nuisance properties.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 14.560 is renumbered and amended to read as follows:

“14.560 Public Nuisance Properties.

(1) Findings. The Common Council finds that any premises that has generated three or more calls for police service for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the City. The Common Council therefore allows the Chief of Police, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.

(2) Definitions.

(a) The following terms shall be defined as follows in this provision:

Chief means the Chief of Police or the Chief's written designee.

Enforcement action means arrest, the issuance of a citation or the issuance of a written or verbal warning.

Nuisance activity means any of the following activities, behaviors or conduct occurring on a premises:

1. An act of harassment, as defined in Wis. Stat. § 947.013.
2. Disorderly conduct, as defined in Wis. Stat. § 947.01.
3. Battery, substantial battery, or aggravated battery, as defined in Wis. Stat. § 940.19.
4. Lewd and lascivious behavior, as defined in Wis. Stat. § 944.20.
5. Prostitution offenses, as defined in Wis. Stat. § 944.30 or 944.34.
6. Littering, as defined in MMC 14.190.
7. Theft, as defined in Wis. Stat. § 943.20.
8. Receiving stolen property, as defined in Wis. Stat. § 943.34.
9. Arson, as defined in Wis. Stat. § 943.02.
10. Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stat. Ch. 961.
11. Gambling, as defined in Wis. Stat. § 945.02.
12. Animal violations, as defined in MMC 14.010, 14.020 or 14.030.
13. Trespass to land, as defined as Wis. Stat. §§ 943.13 and 943.14.
14. Weapons violations as defined in MMC 14.330.
15. Noise violations as defined in MMC 14.140 and 14.150.
16. Violation of curfew for minors, as defined in MMC 14.430.
17. Loitering, as defined in MMC 14.420.
18. Truancy, as defined in MMC 14.380 and 14.390.
19. Alcohol violations, as defined in Chapter 11 MMC and Wis. Stat. § 125.07.
20. Obstructing or resisting an officer, as defined in Wis. Stat. § 946.41.
21. Misuse of emergency telephone numbers as defined in Wis. Stat. § 941.35.
22. Any act of being party to a crime, as defined in Wis. Stat. § 939.05, to any of the activities in subsections (2)(c)(1) through (21) of this section.
23. Any conspiracy to commit, as defined in Wis. Stat. § 939.31, or attempt to commit, as defined in Wis. Stat. § 939.32, any of the activities in subsections (2)(c)(1) through (21) of this section.
24. The execution of arrest or search warrants at a particular location.
25. City of Manitowoc inspection-related calls where the Police Department responds.

Owner means the owner of the premises or the owner's agent who has been given written authority by the owner to enter into binding agreements concerning the nuisance premises.

Premises means an individual dwelling unit, an apartment building (all units included as separate premises), or an individual business premises and associated common areas.

(f b) Notice. Whenever the Chief determines that three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the Chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The Chief may also consider whether there has been an effective change in ownership of the premises in calculating occurrences of nuisance activity. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner. The notice shall be delivered as set forth in subsection (2)(g) of this section.

(g c) Notice Procedure. Notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor or Manitowoc County Register of Deeds. If this address is returned, the Police Department may use any lawful resources available to locate the property owner.

(h d) Abatement Plan. Any owner receiving such notice as set forth above shall meet with the Chief or his/her designee within five days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the Chief, owner and property tenant shall meet, ~~and discuss,~~ and mutually prepare an abatement plan to address and eliminate the nuisance activity on the property. If the tenant is unable or unwilling to meet on such plan, the Chief and property owner shall nonetheless meet to discuss such abatement plan. The Chief shall provide a written copy of the plan to the tenant. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.

(i e) Additional Nuisance Activity. Whenever the Chief determines that additional nuisance activity has occurred at a premises for which notice has been issued as set forth above, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

(3) **Appeal.** Appeal of the determination of the Chief of Police that the property is a chronic nuisance property may be submitted to the Common Council within 10 days of notice. Wis. Stat. Ch. 68 shall not apply to such an appeal.

(4) **First Offense.** Any person who shall violate any provision of this section or any regulation, rule, or order made hereunder shall forfeit not less than \$1.00 or more than \$90.00.

(5) **Subsequent Offenses.** Any person who shall violate any provision of this section or any regulation, rule, or order made hereunder within 24 months after committing a previous violation of this section shall forfeit not less than \$180.00."

Section 2. This ordinance shall take effect the day after publication.

Introduced _____

Adopted _____

Approved _____

Justin M. Nickels, Mayor

Fiscal Impact: n/a
Funding Source: n/a
Finance Director Approval: /sc
Approved as to form: /kmm

Drafted by City Attorney Kathleen M. McDaniel