

Public Safety
10-17-16

16-0682

ORDINANCE

An Ordinance to amend Section 14.440 of the Manitowoc Municipal Code regulating **Trespassing**.

Section 1. Section 14.440 of the Manitowoc Municipal Code is amended to read as follows:

"14.440 Trespass to Land.

~~(1) Whoever does any of the following is subject to a violation of this section:~~

~~(a) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises;~~

~~(b) Enters any enclosed or cultivated land of another with a vehicle of any kind without the express or implied permission of the owner or occupant;~~

~~(2) A person has received notice from the owner or the occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted within the meaning of this section, a sign must be placed in a conspicuous place on the property;~~

(1) **Definitions.** For purposes of this section:

(a) "Carry" means to go armed with.

(b) "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(c) "Implied consent" means conduct or words or both that imply that an owner or occupant of land has given consent to another person to enter the land.

(d) "Licensee" means an individual holding a valid license to carry a concealed weapon pursuant to Wis. Stat. § 175.60 or to an individual who is 21 years of age or over, who is not a Wisconsin resident and who has been issued an out-of-state license.

(e) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district or a combination or subunit of any of the foregoing.

(f) "Nonresidential building" includes a nursing home as defined in Wis. Stat. § 50.01 (3), a community-based residential facility as defined in Wis. Stat. § 50.01 (1g), a residential care apartment complex as defined in s. 50.01 (6d), an

adult family home as defined in Wis. Stat. §50.01 (1), and a hospice as defined in Wis. Stat. § 50.90 (1).

(g) "Open land" means land that meets all of the following criteria:

1. The land is not occupied by a structure or improvement being used or occupied as a dwelling unit;

2. The land is not part of the curtilage, or is not lying in the immediate vicinity, of a structure or improvement being used or occupied as a dwelling unit;

3. The land is not occupied by a public building;

4. The land is not occupied by a place of employment as defined by Wis. Stat. § 101.01(11).

(h) "Private property" means real property that is not owned by the United States, the State of Wisconsin or the City of Manitowoc.

(i) "Special event" means an event that is open to the public, is for a duration of not more than three weeks, and either has designated entrances to and from the event that are locked when the event is closed or requires an admission.

(2) Trespass Upon Buildings or Premises. Whoever does any of the following is subject to a violation of this section:

(a) Enters any enclosed, cultivated or undeveloped land of another, other than open land specified in par. (e), without the express or implied consent of the owner or occupant.

(b) Enters any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.

(c) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises. This paragraph does not apply to a licensee if the owner's or occupant's intent is to prevent the licensee from carrying a firearm on the owner's or occupant's land.

(d) Enters undeveloped private land from an abutting parcel of land that is owned by the United States, this state or a local governmental unit, or remains on such land, after having been notified by the owner or occupant not to enter or remain on the land.

(e) Enters or remains on the land of another contrary to the specified conditions of the owner or occupant's consent or for a purpose other than that expressly consented to.

(3) Trespass to Buildings While Carrying a Firearm. Whoever does any of the following while carrying a firearm is subject to a violation of this section:

(a) Enters or remains at a residence that the actor does not own or occupy after the owner of the residence, if he or she has not leased it to another person, or the occupant of the residence has notified the actor not to enter or remain at the residence while carrying a firearm or with that type of firearm. In this subdivision, "residence," with respect to a single-family residence, includes the residence building and the parcel of land upon which the residence building is located, and "residence," with respect to a residence that is not a single-family residence, does not include any common area of the building in which the residence is located or any common areas of the rest of the parcel of land upon which the residence building is located.

(b) Enters or remains in a common area in a building, or on the grounds of a building, that is a residence that is not a single-family residence if the actor does not own the residence or does not occupy any part of the residence, if the owner of the residence has notified the actor not to enter or remain in the common area or on the grounds while carrying a firearm or with that type of firearm. This subdivision does not apply to a part of the grounds of the building if that part is used for parking and the firearm is in a vehicle driven or parked in that part.

(c) Enters or remains in any part of a nonresidential building, grounds of a nonresidential building, or land that the actor does not own or occupy after the owner of the building, grounds, or land, if that part of the building, grounds, or land has not been leased to another person, or the occupant of that part of the building, grounds, or land has notified the actor not to enter or remain in that part of the building, grounds, or land while carrying a firearm or with that type of firearm. This subdivision does not apply to a part of a building, grounds, or land occupied by the state or by a local governmental unit, to a privately or publicly owned building on the grounds of a university or college, or to the grounds of or land owned or occupied by a university or college, or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of a building, grounds, or land used as a parking facility.

(d) Enters or remains at a special event if the organizers of the special event have notified the actor not to enter or remain at the special event while carrying a firearm or with that type of firearm. This subdivision does not

apply, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the special event grounds or building used as a parking facility.

(e) Enters or remains in any part of a building that is owned, occupied, or controlled by the state or any local governmental unit, excluding any building or portion of a building under s. 175.60 (16) (a), if the state or local governmental unit has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. This subdivision does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

(f) Enters or remains in any privately or publicly owned building on the grounds of a university or college, if the university or college has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. This subdivision does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

(4) A person has received notice from the owner or occupant within the meaning of this section if he or she has been notified personally either orally or in writing, or if the land is posted. Land is considered to be posted under either of the following procedures:

(a) If a sign at least 11 inches square is placed in a conspicuous place on the property to be protected. The sign must provide an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this subdivision were erected or in existence upon the premises to be protected prior to the event complained of shall be prima facie proof that the premises to be protected were posted as provided in this subdivision.

(b) If markings at least one foot long, including in a contrasting color the phrase "private land" and the name of the owner, are made in a conspicuous place on the land to be protected.

(5) Exemptions: This section does not apply to any of the following:

(a) A government agent or employee or a law enforcement officer entering or remaining on the premises of another while acting in his or her official capacity.

(b) A hunter entering land that is required to be open for hunting under Wis. Stat. § 29.885 (4m) or 29.889 (7m).

(c) A person entering or remaining on any exposed shore area of a stream as authorized under Wis. Stat. § 30.134.

(d) A labor union representative conferring with an employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.

(6) Penalty. Any person violating this section shall upon conviction be issued a forfeiture of not less than \$100 nor more than \$1000, plus costs. Any person violating this section while carrying a firearm shall upon conviction be issued a forfeiture of not less than \$500 nor more than \$1000, plus costs.

(7) Severability. If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding on the franchisee and the City.”

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

Introduced OCT 17 2016 _____

Adopted _____

Approved _____

Justin M. Nickels, Mayor

Drafted by Staff Attorney Elizabeth Majerus

Fiscal Impact: \$0
Funding Source: n/a
Finance Director Approval: /sc
Approved as to form: /kmm