

ORDINANCE

An Ordinance to amend Sections 14.600 and 14.640 of the Manitowoc Municipal Code regulating **Retail Theft and Retail Fraud**.

Section 1. Section 14.600 of the Manitowoc Municipal Code is amended to read as follows:
“14.600 Retail Theft.

(1) In this section:

Merchant includes any “merchant” as defined in Wis. Stat. § 402.104(1) or any innkeeper, motelkeeper, ~~or~~ hotelkeeper, campground operator, boarding or lodging house keeper, gas station attendant, or restaurateur.

Value of merchandise means:

1. For property of the merchant, the value of the property; or
2. For merchandise held for resale, the merchant’s stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant’s stated price of the merchandise, the difference between the merchant’s stated price of the merchandise and the altered price.

(2) Whoever does any of the following is subject to a violation of this section penalized under MMC 14.860:

(a) Whoever intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant or property of the merchant without his or her consent and with intent to deprive the merchant permanently of possession, or the full purchase price, of the merchandise, or ~~may be penalized as provided in MMC 14.860.~~

(b) Whoever intentionally absconds without paying for any beverage, food, lodging, ticket, or other means of admission, or other service or accommodation at any campground, hotel, motel, boarding or lodging house, restaurant, or recreational attraction; or

(c) Whoever intentionally absconds without paying for gasoline or diesel fuel after having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail.

(3) Under this section, prima facie evidence of intent is shown by any of the following:

(a). Failure or refusal to pay, upon written demand, the established charge for any merchandise, beverage, food, lodging, or other service or accommodation actually rendered; or

(b). Refusal or failure to pay a recreational attraction the established charge of admission, accommodation, or service; or

(c). Refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money given by any guest to a campground, hotel, motel, boarding or lodging house, or restaurant in payment of any obligation arising out of the relationship as guest; or

(3) (d). The ~~intentional~~ concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant’s store ~~is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof.~~

(e) The discovery of unpurchased merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another ~~is evidence of intentional concealment on the part of the person so concealing such goods.~~

(4) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Any merchant or merchant's adult employee who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

(5) If the value of the merchandise hereunder exceeds \$250.00, this section shall not apply and the matter shall be referred to the Manitowoc County District Attorney for criminal prosecution."

Section 2. Section 14.640 of the Manitowoc Municipal Code is amended to read as follows:

"14.640 Retail Fraud.

(1) Whoever returns merchandise to a merchant for the purpose of claiming a cash refund or credit by intentionally deceiving the merchant with a representation that such merchandise was purchased by such person from such merchant at the price claimed where such merchandise was in fact not purchased by such person or was not purchased from such merchant or was purchased at a price lower than the price claimed shall be guilty of a violation of this section.

(2) Whoever intentionally gives false information on a lodging registration form, or gives false information or presents false or fictitious credentials for the purpose of obtaining any beverage, food, lodging, merchandise, or credit while a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, shall be guilty of a violation of this section.

(3) If the value of the beverage, food, lodging, merchandise, or credit exceeds \$250.00, this section shall not apply and the matter shall be referred to the Manitowoc County District Attorney for criminal prosecution."

Section 3. This ordinance shall take effect the day after publication.

Introduced _____

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