

ORDINANCE NO. 1332

An Ordinance to Amend and Re-enact
Section 18-4-7 (3), (4), (5) and (6)
Criminal Trespass
of the Mandan Code of Ordinances

Be it Ordained by the Board of City Commissioners as follows:

Sec. 18-4-7. Criminal Trespass

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 12.1-22-03.

3.
 - a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
 - b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
 - c. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
4.
 - a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is a non-criminal offense.
 - b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.

c. The peace officer citing the individual shall:

(1) Take the name and address of the individual; and

(2) Notify the individual of the right to request a hearing if posting bond by mail.

d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.

e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.

f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.

g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.

h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.

i. A citing peace officer may not receive the statutory fine or bond.

j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.

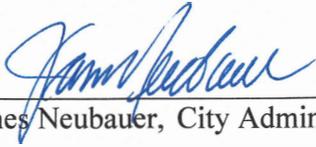
2. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

6. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

By: 

Tim Helbling, President
Board of City Commissioners

Attest:



James Neubauer, City Administrator

First Consideration: December 17, 2019

Second Consideration and Final Passage: January 7, 2020

Publication: February 14, 2020