



JOHN HENDERSON, MAYOR
JOHN E. SHAY, CITY MANAGER
DEBORAH L. LUSKIN, CITY CLERK
LINDA J. ROGERS, INTERIM CITY TREASURER

CITY OF LUDINGTON

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MEMORANDUM

TO: Mayor Henderson and the Ludington City Council
FROM: John Shay, City Manager JS
DATE: February 24, 2011
RE: Proposed Workplace Safety Policy

I have attached a proposed Workplace Safety Policy for the City Council's consideration. The goal of the policy is to maintain and foster a safe working environment for every City employee. The proposed policy would require employees to ensure that various security measures, such as monitoring all persons entering a worksite, keeping exterior doors locked except those designated for the public to use, and reporting any security breaches or threats to employees.

As part of the policy, in the event that an employee(s) feels threatened by a person(s), the City could serve a Letter of Trespass (see attached) to the individual creating the safety concern. This would prohibit the person in question from entering a City-owned facility, such as City Hall, until further notice. The person receiving the Letter of Trespass could file a written appeal to the City Attorney. If the person violates the Letter of Trespass, the Police Department could arrest the individual.

The Public Safety Committee is recommending that the City Council approve the Workplace Safety Policy.

CITY MANAGER'S RECOMMENDATION: Approve Workplace Safety Policy.

On the Shores of Lake Michigan

CITY OF LUDINGTON

POLICY	EFFECTIVE DATE February 28, 2011	NUMBER
SUBJECT Workplace Safety Policy		
REFERENCE	SPECIAL INSTRUCTIONS	
DISTRIBUTION All Employees	RE-EVALUATION DATE	NO. OF PAGES

I. GOAL

The City of Ludington views each employee as a valuable and necessary resource in providing services to the citizens of Ludington. It is therefore the City's goal to maintain a safe work environment for every employee.

II. PURPOSE

The purpose of this policy is to implement building security features and procedures that allow for uninterrupted service, while at the same time eliminate opportunities for theft, assault, threats, harassment, intimidation, or other actions that otherwise could adversely affect an employee's sense of safety and security.

III. DEFINITIONS

Designee of City Manager: The department head or work site supervisor.

Letter of Trespass: A document that notifies the recipient that he/she is expressly prohibited entry to a specified work site without prior written permission from the City Manager or his/her designee under conditions to be specified by the City Manager or his/her designee.

Restricted Areas: Those areas not intended for access by the general public.

Security Measure: Any device or practice that, by design or method, provides for a safer environment (examples: door lock, camera system, visual monitoring of work site, etc.).

Trespass: To enter without lawful authority contrary to Ludington City Ordinance, Section 34-61 (a) and (b), or applicable state law.

Work Site: All City-owned/operated properties located either inside or outside of City limits, including but not limited to: City Hall, Police Department, Fire Hall, Senior Center, Water Treatment Plant, Wastewater Treatment Plant, Department of Public Works, and Municipal Marina.

IV. RESPONSIBILITIES

- A. The City Manager, or his/her designee, shall strive to ensure that necessary physical security measures (as follows) are in place and utilized:
- Exterior and interior door locks
 - Ability to monitor entrances
 - Alarms (Lift stations, Water Plant, Police Department-Evidence Room, etc.)
 - Fencing with locked gates (where appropriate)
 - Ability to notify Mason-Oceans 911 of an emergency
- B. It is the duty of all employees to be aware of security measures within their assigned work site and to ensure that those measures are practiced, including but not limited to:
- Monitoring of all persons entering the work sites.
 - All exterior doors locked during non-business hours.
 - All exterior doors remain locked during business hours except the main entrance door(s) where appropriate.
 - Interior doors allowing entrance to restricted areas remain locked.
 - Monitor fellow employees while entering and leaving the work site.
 - Have keys out and ready when approaching the work site or vehicle.
 - Assist fellow employees seeking to enter restricted areas within the work site, when appropriate.
 - Notify, or assist in the notification of, Mason-Oceana 911 in an emergency situation.
- C. It is the duty of all employees to report any of the following:
- Breaches of security measures.
 - Physical security features in need of replacement or repair.
 - Employees being threatened, intimidated, coerced or otherwise made to feel unsafe within the work environment.
 - Incidents of Domestic Violence, threats, intimidation or other safety-related issues involving an employee's duties outside the work environment.
 - Any unusual activity or individuals present at or near the work site.
- D. Additional duties of the City Manager:
1. Notify Mason-Oceana 911 in an emergency situation.
 2. Notify Mason-Oceana 911 (Law Enforcement) in an instance where a criminal violation has occurred.

3. Initiate appropriate disciplinary action when the actions of a City employee create an unsafe situation for a fellow city employee.
4. Other actions required by existing City Policy.
5. Initiate process to bar the presence of any member of the public at any City work site when appropriate (see Removal of Threat Process).
6. Follow-up to ensure that criminal prosecution is pursued, if possible.

V. PROCESS - REMOVAL OF THREAT

A. City Manager

1. Receives report of threat or injury at a City work site or reports of threats, injury or acts of intimidation against a City employee outside of a City work site.
2. Makes an assessment of the threat/concern.
3. Directs the employee to provide a written statement documenting the concern.
4. Notifies Chief of Police regarding employee's concern.
5. Makes any other appropriate notifications.
6. Provides for other methods of contact with person barred from entering the work site (i.e. telephone, U.S. Mail, e-mail, etc.).
7. As a last resort, the City Manager, in coordination with the Chief of Police, may utilize "limited" scheduled on-site visits for prohibited individual only when necessary.
8. A limited scheduled visit will not affect, alter or void the standing Letter of Trespass.
9. Complete Letter of Trespass prohibiting person, who is creating the safety concern, from entering a City work site or other City property.

B. Chief of Police

1. Directs a police officer to personally serve the Letter of Trespass upon the person creating the safety concern.
2. Directs that police officer to complete a police report detailing the incident.
3. Cause the arrest (for violation of the City Ordinance or applicable state law - Trespassing) of the person creating the safety concern, in violation of the Letter of Trespass, upon his/her unauthorized entry to a City work site.

C. City Attorney

1. Upon receipt of the Letter of Trespass, the subject of a Letter of Trespass may appeal such action by submitting a written appeal to the City Attorney c/o the City of Ludington, 400 S. Harrison St., Ludington, MI 49431, via U.S. Mail.
2. In a manner consistent with this Policy, the City Attorney may receive proofs from the City, any of its employees and the subject of the Letter of Trespass before deciding the appeal.
3. In no event is the subject of the Letter of Trespass authorized to violate the Letter of Trespass in order to file his/her appeal.
4. The decision of the City Attorney is deemed to be the City's final response to that appeal.
5. If the subject of the Letter of Trespass is subsequently arrested for violation of same, his/her appeal lies with the presiding judge in the criminal proceeding.

VI. **Compliance**

Violations of this policy, or portions thereof, may result in disciplinary action.

VII. **Application**

This order constitutes City policy, and is not intended to enlarge the employer or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employer's or employee's legal duty as imposed by law.

CITY OF LUDINGTON LETTER OF TRESPASS

To: _____

In the immediate past, there have been actions taken or aided by you that have created a safety concern for one or more members of the City of Ludington staff located at _____ Ludington, Michigan. Although you have not necessarily taken physical action to harm a staff member, your actions have been perceived by one or more staff members as threatening to their personal safety.

We are not alleging any criminal behavior on your part, but in the interest of maintaining a safe and secure work environment, as required by City of Ludington policy, I herewith expressly deny you the privilege of coming to _____ until further printed notice.

For your information, one of the provisions of the City of Ludington Code, (Section 34-61) states:

- (a) *No person shall trespass upon the lands or premises of another or willfully enter upon the lands or premises of another without lawful authority after having been forbidden to do so by the owner or occupant or the agent or servant of the owner or occupant or remain on the lands or premises of another without lawful authority after being notified to depart therefrom by the owner or occupant or the agent or servant of the owner or occupant.*
- (b) *No person shall enter any dwelling, house, cottage, cabin, hotel, office, store, barn, garage or other building, boat, ship, car or any other structure used or kept for public or private use, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, servant of the owner or occupant or the person having immediate control thereof. This subsection shall not apply to the entry of any place which at the time of entry was open to the public, unless such entry has been expressly denied, nor to any entry by a peace officer or someone under his direction, when in the lawful performance of his duties as a peace officer.*
- (c) *No person shall prowl about the premises of any other person in the nighttime without authority or the permission of the owner of such premises.*
- (d) *Where the city has granted exclusive use of a park or any portion of a park, or a building or portion of a building owned by the city to any individual(s), entity, or organization, no person shall enter such park, portion of such park, building, or portion of such building for which exclusive possession has been granted by the city without permission of the individual(s), entity, or organization who has been granted the use of such premises, nor shall any person disrupt or interfere with the use of such premises by such individual(s), entity, or organization which has the right to exclusive use.*

This subsection shall not be construed as the removal or limitation of the authority or right of access of the city, and its officers, employees or representatives, as owner of said park, or building, or as a limitation, or upon any other governmental agency, authority or officer, during the period of time that said park or building is being used by the individual(s), entity, or organization.

Section 34-61 indicates that even though the location identified above is open to the public, since your entry is expressly denied, you would violate the Ludington City Code by entering the premises. In other words, if a law officer came upon the scene and you were on the premises, you would be committing a misdemeanor, to wit: a trespass in his/her presence and you could be immediately arrested.

As indicated, you are expressly denied permission to enter upon the premises of _____ until further notice.

Signed: _____ Title: _____

Date: _____