



Department of Justice

THOMAS J. MILLER
ATTORNEY GENERAL

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515-281-5164
FACSIMILE: 515-281-4902

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Patrick Jackson
Des Moines County Attorney
215 Columbia Street
Burlington, Iowa 52601

Dear Pat:

This letter is in response to your inquiry regarding the ability of city or county authorities to place restrictions on the use of firearms by persons with nonprofessional permits to carry weapons on city/county property after the enactment of Senate File 2379, which becomes effective January 1, 2011. Senate File 2379, 83rd G.A., 2nd Sess., § 19. This legislation made significant changes in the process of issuing nonprofessional permits to carry weapons under Iowa Code Chapter 724.

Iowa Code §724.28 restricts the scope of local ordinances limiting firearm registration, licensure, transportation, possession and transfer when such activities are otherwise lawful under the state law. Iowa Code §724.28 is not changed by Senate File 2379. Section 5 of Senate File 2379 amends Iowa Code §724.7, "nonprofessional permits to carry weapons", and provides these nonprofessional permits are valid throughout the state except where carrying a firearm is prohibited by state or federal law.

In 2003, this office issued the attached formal opinion, Op. Atty. Gen. #03-4-1, interpreting the power of a city or county to restrict use of its property by persons with firearms in light of the limitations of Iowa Code §724.28. That opinion determined that Iowa Code §724.28 would not bar a city or a county from regulating firearms *on the city or county's own property*; however, Iowa Code §724.28 does not allow more generalized regulation of firearms within these jurisdictions. This office has reviewed Opinion #03-4-1 in light of the changes to Iowa Code Chapter 724 contained in Senate File 2379, and concluded that the opinion remains an accurate interpretation of the law.

While the city ordinance reviewed in Op. Atty. Gen. #03-4-1 provided a criminal penalty for possession of weapons in violation of the city ordinance, the best practice may be enforcement through the existing state criminal trespass statute, Iowa Code §716.7(2)(b).

Entering public property with notice of a weapons prohibition or remaining thereon after being asked to vacate would be punishable under this statute. Local authorities seeking to bar such use by armed persons should clearly post weapon restrictions on entryways to affected public property to give adequate notice to users to allow compliance.

Enforcement through the criminal trespass statute is consistent with the means cities and counties have generally used to deal with use of their facilities in violation of regulations or use that disrupts normal business thereon.

Finally, the limited, local regulation of firearm possession on county or city property would be best implemented through a resolution or motion by a city council or county board of supervisors. These actions by cities and counties are defined by Iowa Code §331.101(13) and §362.2(21) as a statement of policy or order for action to be taken. Ordinances are laws of a general and permanent nature to be applied throughout the jurisdiction. *See* §331.101(10) and §362.2(16). Therefore, a motion or resolution would comport with the narrow regulation by a city or county necessary for the orderly use of only its own facilities.

I hope you find this information helpful in resolving your question.

Best regards,

Michael Bennett
Assistant Iowa Attorney General
PATC Division