

..Number
230817
..Version
ORIGINAL
..Reference

..Sponsor
ALD. SPIKER

..Title
An ordinance relating to nuisance odor regulations.

..Section
80-6 rc

..Analysis
This ordinance provides that, in addition to initiation by direct verification of an odor nuisance violation by a health department or department of neighborhood services inspector, prosecution for an odor nuisance violation may be initiated by a member of the general public submitting a complaint to the health department or department of neighborhood services. The ordinance also stipulates that the complaint shall include relevant information relating to the date, time and place of the alleged odor nuisance, the nature of the odor nuisance, and shall identify the person or persons responsible for or allowing the odor, or alternatively, shall include information leading to the identification of the person or persons by the health department or department of neighborhood services. Information included in the complaint shall also identify one or more persons who experienced or were affected by the odor, at least one of whom is an adult available to testify in court.

..Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 80-6 of the code is repealed and recreated to read:

80-6. Offensive Odors from Factories or Shops. 1. FINDING. Any gas plant, factory, yard, store house, building or structure of any kind, tallow, chandler's shop, soap factory, tannery, distillery, livery stable, cattle yard, shed, barn, packing house, slaughter house, rendering establishment, coal pile, rubbish accumulation, stagnant pool, sink hole or other thing which shall become noxious, foul or offensive, or which shall emit foul or offensive odors, gases, effluvia or stenches, or which shall be dangerous or prejudicial to the public health, is declared to be a public nuisance.

2. ENFORCEMENT PROCEDURE. a. The commissioner of health or commissioner of neighborhood services may commence prosecution for an odor nuisance violation upon verification by a health department or department of neighborhood services inspector of the existence of a nuisance described in sub. 1.

b. As an alternative to commencement of prosecution based upon direct verification by a health department or department of neighborhood services inspector, the commissioner of health or commissioner of neighborhood services may commence prosecution upon receipt of a complaint submitted by a member of the public that

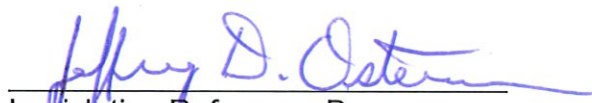
complies with the requirements of par. c and which alleges the existence of a nuisance described in sub. 1.

c. A complaint by a member of the public, sufficient to authorize the commencement of an odor nuisance prosecution in the absence of direct verification of the odor by a health department or department of neighborhood services inspector shall include relevant information relating to the date, time and place of the alleged odor nuisance, the nature of the odor nuisance, and shall identify the person or persons responsible for or allowing the odor, or alternatively, shall include information leading to the identification of the person or persons by the health department or department of neighborhood services. Information included in the complaint shall also identify one or more persons who experienced or were affected by the odor, at least one of whom is an adult available to testify in court.

d. Testimony required. No person shall be convicted under this procedure except upon testimony of at least one affected adult person.

..LRB

APPROVED AS TO FORM



Legislative Reference Bureau

Date: 9/23/2023

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

LRB179349-1

Jeff Osterman

09/22/2023