



Legislation Text

File #: 140381, Version: 1

140381
SUBSTITUTE 1

ALD. WITKOWSKI

A substitute ordinance relating to security measures for retail establishments.

105-91 rc

Currently, if 3 or more incidents of violent or firearms-related crime have occurred at a retail establishment, the chief of police may require the establishment to install a security camera system to help ensure public safety.

Under this ordinance, the police chief may require a retail establishment to install a security camera system if the police chief determines 3 or more separate incidents of “qualified activity” have occurred at the retail establishment. “Qualified activity” means any of the following activities, behaviors or conduct whenever engaged in by any person associated with the premises of a retail establishment:

1. Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32, Wis. Stats.
2. Robbery as enumerated in s. 943.32, Wis. Stats.
3. Theft as defined in s. 110-16 of the code or s. 943.20, Wis. Stats.
4. Crimes involving illegal possession or use of firearms as defined in ch. 941 and s. 948.60, Wis. Stats.
5. Discharge of a firearm as defined in s. 105-35.
6. Disorderly conduct as defined in s. 106-1 of the code or s. 947.01, Wis. Stats.
7. Keeping a place of prostitution as defined in s. 106-3 of the code or s. 944.34, Wis. Stats., or leasing a building for the purposes of prostitution as defined in s. 106-4 of the code.
8. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
9. Gambling as defined in ss. 107-1 and 2 of the code or s. 945.02, Wis. Stats.
10. Underage alcohol activities, as defined in s. 90-18.
11. The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license or to be in violation of the terms of such license as provided in s. 90-3-1 of the code or s. 125.04(1), Wis. Stats.
12. Any crime subject to an increased penalty for the use of a dangerous weapon as defined in s. 939.63, Wis. Stats.
13. Exceeding maximum authorized occupancy as defined in s. 85-23.
14. Conducting or operating public entertainment without a license as provided in s. 108-5.

In addition, the ordinance requires that security cameras be installed and maintained in proper working order and operate during all hours the establishment is open to customers, and provide clear

images of the entire premises.

All digital video shall also be made available to the licensing committee and law enforcement officers.

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

Part 1. Section 105-91 of the code is repealed and recreated to read:

105-91. Retail Establishment Security Measures. 1. FINDINGS. In order to promote safe and orderly public places such as retail establishments and to assist police investigations of crimes and ordinance violations, the common council finds that any retail establishment that has facilitated or been the location of 3 or more incidents of qualified activity within a one-year period may be required to install a security camera system to help ensure the safety and welfare of the people of the city of Milwaukee.

2. DEFINITIONS. In this section: a. "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or subject to license in the operation of a retail establishment upon the premises.

b. "Person associated with a premises" means the premises owner, operator, manager, resident, occupant, guest, visitor, patron or employee or agent of any of these persons.

c. "Qualified activity" means any of the following activities, behaviors or conduct whenever engaged in by any person associated with a premises:

c-1. Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32, Wis. Stats., except as provided in subd. 2.

c-2. Robbery as enumerated in s. 943.32, Wis. Stats.

c-3. Theft as defined in s. 110-16 of the code or s. 943.20, Wis. Stats.

c-4. Crimes involving illegal possession or use of firearms as defined in ch. 941 and s. 948.60, Wis. Stats.

c-5. Discharge of a firearm as defined in s. 105-35.

c-6. Disorderly conduct as defined in s. 106-1 of the code or s. 947.01, Wis. Stats.

c-7. Keeping a place of prostitution as defined in s. 106-3 of the code or s. 944.34, Wis. Stats., or leasing a building for the purposes of prostitution as defined in s. 106-4 of the code.

c-8. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.

c-9. Gambling as defined in ss. 107-1 and 2 of the code or s. 945.02, Wis. Stats.

c-10. Underage alcohol activities, as defined in s. 90-18.

c-11. The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license or to be in violation of the terms of such license as provided in s. 90-3-1 of the code or s. 125.04(1), Wis. Stats.

c-12. Any crime subject to an increased penalty for the use of a dangerous weapon as defined in s. 939.63, Wis. Stats.

c-13. Exceeding maximum authorized occupancy as defined in s. 85-23.

c-14. Conducting or operating public entertainment without a license as provided in s. 108-5.

d. "Retail establishment" means an establishment providing retail sale of new products to the public and rendering services incidental to the sale of such products, including, but not limited to, sale of: art supplies and picture frames, art works, auto parts, baked goods, bicycles, books, newspapers and magazines, collectibles, dry goods, notions and novelties, flowers and plants, food and beverages, furniture and floor coverings, hardware, hobbies, toys and games, household goods, jewelry, luggage, major appliances, music, records, compact discs and tapes, paint and wallpaper, pets, pharmaceutical products, photo equipment and processing, sewing apparatus, sporting goods, stationery, tobacco products and wearing apparel. This term includes, but is not limited to, a grocery store, specialty food store, antique store, licensed alcohol beverage establishment, butcher shop, delicatessen, portrait studio, furniture or appliance rental establishment or video rental or sales business, adult book store, lumber yard, building supply or home improvement center, garden center or secondhand store.

3. PROCEDURE. a. Whenever the chief of police determines 3 or more separate incidents of qualified activity have occurred at a retail establishment within a one-year period, the chief of police may notify the premises owner or other responsible party in writing that the premises owner or other responsible party is required to install a security camera system and comply with all regulations set forth in sub. 4. The premises owner or other responsible party shall have 60 days from the date of notification to install and maintain for 2 years a security camera pursuant to sub. 4. This notice shall be deemed to be properly delivered if sent either by first-class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. If the premises owner or other responsible party cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or other responsible party's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first-class mail to the last known address of the owner or other responsible party as identified by records of the commissioner of assessments. For purposes of this section, each separate and distinct incident shall constitute a qualified activity, and 2 or more separate and distinct incidents occurring on the same day shall be counted separately. This notice shall contain:

- a-1. The street address or legal description sufficient for identification of the premises.
- a-2. A description of the qualified activity that has occurred at the premises.
- a-3. A notice of the premises owner's or other responsible party's right to appeal pursuant to sub. 5.

b. Failure of a licensee to comply with the regulations of this paragraph shall constitute grounds for non-renewal, suspension or revocation of a license.

4. SECURITY CAMERA REQUIREMENTS. a. Any premises owner or other responsible party subject to sub. 3 shall comply with the following regulations:

- a-1. Security cameras shall be installed and maintained in proper working order and operate during all hours the retail establishment is open to customers. Each security camera shall display an accurate date and time stamp on each image and produce retrievable images suitable for permanent police records.
- a-2. Security cameras shall be installed so as to provide clear images of the entire premises, including areas as specified on the license as well as the public right-of-way abutting the premises and any off-street parking lot used expressly for patron parking. In addition, at least one security

camera shall provide an overall view of each counter and register area, and at least one security camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving the retail establishment. Security camera views shall not be obstructed by premises fixtures or displays. The police may encourage retail establishments to position and use additional security cameras to bolster overall crime-prevention efforts.

a-3. If a time-lapse digital video recorder is operated, recorded images shall not be recorded at a slower speed than 24 hours.

a-4. All digital video records shall be stored and maintained in good viewing order for 30 days after recording.

a-5. All digital video shall be made available upon request to the licensing committee and law enforcement officers. Digital video recordings shall be dated and time-stamped, and all copies of video recordings shall be marked with the accurate date the media was recorded. At least one blank copy per security camera shall be available during all hours the retail establishment is open to customers to replace copies provided to the licensing committee or law enforcement officers, or to replace video recording media that fail.

a-6. Security camera systems shall be capable of copying all images in an accessible form while maintaining the native format. Digital video recordings recorded by security camera systems on a disk storage format, such as CDs or DVDs, shall be copied onto a disk storage format whenever the system's video recording media reaches capacity, but not less frequently than once every 30 days. All security camera system recorded images requested by the licensing committee and law enforcement officers shall be provided on a disk storage format, such as CDRs or DVD-Rs. Security camera system playback software needed to view recorded images shall be copied onto each disk storage format used to store recorded video images.

a-7. On-duty retail establishment employees shall provide a copy of recorded digital images to law enforcement officers immediately upon request.

a-8. The surveillance security cameras shall be maintained in proper working order for a period of 2 years from the date of delivery of the notice in sub. 3.

5. APPEAL. Appeal of the determination of the chief of police pursuant to sub. 3 may be submitted to the administrative review appeals board as provided in s. 320-11. The administrative review appeals board may extend the installation period beyond 60 days in the case of a financial hardship.

6. PENALTIES. Any premises owner or other responsible party who violates any of the provisions of this section, shall upon conviction, forfeit not less than \$500 nor more than \$1,000, and in default of payment thereof, be imprisoned as provided by law.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB152851-2

TWM

6/10/2014