



Legislation Text

File #: 060075, **Version:** 2

060075 SUBSTITUTE 2

ALD. DONOVAN, ZIELINSKI, MURPHY, BOHL, BAUMAN, DUDZIK, WITKOWSKI AND WITKOWIAK

A substitute ordinance relating to the prohibition, suppression and dispersal of unlawful assemblies and providing penalties.

105-1 rc

This ordinance repeals and recreates s. 105-1 of the Milwaukee code of ordinances conforming the language more closely to state law relating to unlawful assemblies.

Section 105-1 of the code, entitled “Riots, Disorderly Assemblages,” currently provides that “any person who shall make or assist in making any riot, noise, or disturbance in this city or shall aid or countenance any disorderly assemblage shall forfeit a penalty not to exceed \$50 for each offense.”

Unlawful assemblies are addressed at s. 947.06, Wis. Stats., which declares that it is the duty of police officers “to suppress unlawful assemblies within their jurisdiction.” The statute punishes the intentional failure or refusal of any person to withdraw from an unlawful assembly with Class A misdemeanor penalties.

This ordinance adopts the state definition of unlawful assembly at s. 947.06(1), Wis. Stats., and provides two levels of forfeiture penalties. The ordinance further defines “person participating in an unlawful assembly involving motor vehicles” to include all persons contributing to an unlawful assembly involving 3 or more motor vehicles.

Failure or refusal to withdraw from an unlawful assembly is punishable by forfeiture of not more than \$500. Failure or refusal to withdraw from an unlawful assembly involving 3 or more motor vehicles is punishable by a forfeiture of not less than \$250 nor more than \$1,000.

Vehicles operated 2 or more times in an unlawful assembly by one or different operators who are convicted of a total of 2 or more violations for failure or refusal to disperse, are declared to be a public nuisance. The city attorney is authorized to bring an action seeking abatement including, but not limited to, removal and sale of such nuisance vehicles.

Whereas, Law enforcement officers in Wisconsin, including police officers of a municipality, have a duty to suppress unlawful assemblies in their jurisdiction; and

Whereas, Unlawful assemblies involving 3 or more persons have occurred periodically within the city causing such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed; and

Whereas, Such unlawful assemblies have in fact caused injury to persons and damage to property; and

Whereas, The suppression of unlawful assemblies requires extensive commitment of police resources; and

Whereas, Unlawful assemblies involving motor vehicles present a heightened risk of injury to persons and damage to property and require greater police resources to suppress; and

Whereas, Unlawful assemblies involving motor vehicles result in obstruction of travel and impediments to lawful commerce; and

Whereas, Both s. 62.11(5), Wis. Stats., and s. 4-10, Milwaukee city charter, provide that the common council may enact legislation for the government and good order of the city, the prevention of crime, and for the health, welfare and safety of the public; now, therefore

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

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

105-1. Riots; Unlawful Assemblies. 1. PURPOSE AND FINDINGS. This section is enacted to protect the health, safety and welfare of the public, to preserve order and to prevent harm or injury to persons and property. The city finds that police officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason they may order all persons who are part of an assembly to disperse. It is further found that unlawful assemblies involving motor vehicles increase the risk of harm or injury to persons or property, obstruct or impede lawful travel and commerce, are more difficult to disperse than other assemblies, and significantly increase the costs of enforcement.

2. DEFINITIONS. a. “Unlawful assembly” means an assembly which consists of 3 or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed. An “unlawful assembly” includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by another person, or persons of any private or public thoroughfares, property or positions of access or exit to or from any private or public building, or dwelling place, or any portion thereof and which assembly does in fact so block or obstruct the lawful use by any other person, or persons of any such private or public thoroughfares, property or any position of access or exit to or from any private or public building, or dwelling place, or any portion thereof.

b. “Person participating in an unlawful assembly involving motor vehicles” includes any person who acts in a manner contributing to or promoting the disturbance of public order in an unlawful assembly involving 3 or more motor vehicles.

3. FAILURE OR REFUSAL TO WITHDRAW; PENALTIES. a. It is unlawful for any person to fail or refuse to withdraw from an unlawful assembly, which the person knows has been ordered to disperse.

b. Any person convicted of a violation of sub. a shall forfeit not more than \$500 or, upon default of payment of forfeiture and costs, be imprisoned in the county jail or house of correction not more than 20 days.

c. Any person convicted of a violation of sub. a., who intentionally fails or refuses to withdraw from an unlawful assembly involving 3 or more motor vehicles, shall forfeit not less than \$250 nor more than \$1,000 or, upon default of payment of forfeiture and costs, be imprisoned in the county jail or house of correction not more than 40 days.

4. VEHICLES CONSTITUTING A PUBLIC NUISANCE; ABATEMENT. a. A motor vehicle operated 2 or more times in an unlawful assembly is declared to constitute a public nuisance.

b. The city attorney is authorized to initiate proceedings in abatement of a nuisance vehicle used 2 or more times by any operator or operators convicted of a violation of sub. 3-a, and to seek appropriate relief including, but not limited to, removal and sale of the vehicle.

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: _____

LRB06199-5

RLW

6/29/2006