



Legislation Text

File #: 001273, Version: 0

001273
ORIGINAL

ALD. PRATT, HENNINGSEN, BREIER, GORDON, MURPHY, D'AMATO, RICHARDS, DONOVAN, BOHL, HERRON, CAMERON-ROLLINS, HINES, PAWLINSKI, NARDELLI, SANCHEZ, JOHNSON-ODOM AND SCHERBERT.

An ordinance prescribing a penalty for the repeated occurrence nuisance activities at certain premises.

80-2 rc
80-10 cr

The ordinance defines several illegal activities as nuisances and states that the owners of premises at which 3 or more nuisance activities exist or have occurred during any 30-day period or at which there has been a pattern of repeated nuisances related to controlled substances, prostitution or gambling, may be assessed the cost of enforcement against all subsequent nuisance activities. The chief of police is first directed to notify owners that they risk having such costs assessed and is also directed to offer owners an opportunity to abate the nuisances without further city action.

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

Part 1. Section 80-2 of the code is repealed and recreated to read:

80-2. Authority to Abate Nuisances.

1. COMMISSIONER AUTHORIZED TO ABATE. The commissioner shall have the authority to cause the summary abatement of any nuisance found on any premises in accordance with the procedure prescribed in s. 80-8.

2. ENFORCEMENT BY INJUNCTION. The regulations of this chapter may be enforced by means of injunction.

Part 2. Section 80-10 of the code is created to read:

80-10. Chronic Nuisance Premises.

1. FINDINGS. The common council finds that any premises that has generated 3 or more calls for police service for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council therefore directs the chief of police and the commissioner of neighborhood services, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.

2. DEFINITIONS. For the purposes of this section:

a. "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with a premises:

- a-1. An act of harassment as defined in s. 947.013, Wis. Stats.
- a-2. Disorderly conduct as defined in s. 106-1 of the city code or s. 947.01, Wis. Stats.
- a-3. Battery, substantial battery or aggravated battery as defined in s. 940.19, Wis. Stats.
- a-4. Indecent exposure as defined in s. 106-5 of the city code or s. 944.20(1)(b), Wis. Stats.
- a-5. Keeping a place of prostitution as defined in s. 106-3 of the city code or s. 944.34, Wis. Stats. or leasing a building for the purposes of prostitution as defined in s. 106-4 of the city code.
- a-6. Littering of premises as defined in s. 79-12.
- a-7. Theft as defined in s. 110-16 of the city code or s. 943.20, Wis. Stats.
- a-8. Arson as defined in s. 943.02, Wis. Stats.
- a-9. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
- a-10. Gambling as defined in ss. 107-1 and 2 of the city code or s. 945.02, Wis. Stats.
- a-11. Keeping a prohibited dangerous animal as defined in s. 78-25.
- a-12. Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats.
- a-13. Any act of aiding and abetting, as defined in s. 50-17, any of the activities, behaviors or conduct enumerated in subds. 1 to 12.
- a-14. Any conspiracy to commit, as defined in s. 939.31, Wis. Stats., or attempt to commit, as defined in s. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in subds. 1 to 12.
- a-15. Discharge of a firearm as defined in s. 105-35.
- a-16. The production or creation of excessive noise as defined in s. 80-63.
- a-17. Loitering as defined in s. 106-31.
- a-18. Public drinking as defined in s. 106-1.8.
- a-19. Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace as defined in s. 78-29.
- a-20. Misuse of emergency telephone numbers as defined in s. 105-77.

b. "Person associated with" means any person who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

3. PROCEDURE. a. Whenever the chief of police determines 3 or more nuisance activities have occurred at a premises on separate days during a 30-day period or that repeated nuisances of the types defined in sub. 2-a-5,9 and 10 have occurred at a premises, the chief of police may notify the premises owner in writing that the premises is in danger of becoming a chronic nuisance. This notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner'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 as identified by the records of the commissioner of assessments or the commissioner of neighborhood services. This notice shall contain:

- a-1. The street address or legal description sufficient for identification of the premises.
 - a-2. A description of the nuisance activities that have occurred at the premises and a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises.
 - a-3. A statement that the premises owner shall within 10 days respond to the chief of police either with an appeal or to propose a written course of action to abate the nuisance activities which is acceptable to the chief.
- b. Whenever the chief of police determines that an additional nuisance activity has occurred at a premises for which notice has been issued pursuant to par. a and either this nuisance activity has occurred not less than 13 days after notice has been issued or a course of action submitted pursuant to par. a-3 has not been completed, the chief of police may calculate the cost of enforcement for this and any subsequent nuisance activities and may refer such cost to the commissioner. The chief of police shall notify the premises owner of the decision to refer the cost of enforcement. Delivery of this notice, along with a copy of the chief's referral letter to the commissioner, shall be made as set forth in par. a. The notice shall contain:
- b-1. The street address or legal description sufficient for identification of the premises.
 - b-2. A statement that the chief of police has referred the cost of enforcement to the commissioner with a concise description of the nuisance activities and the relevant sections of the code.
 - b-3. A notice of the premises owner's right to appeal pursuant to sub. 5.
- c. Violation. Each subsequent incident of nuisance activity shall be deemed a separate violation.

4. COST RECOVERY. Upon receipt of a notice from the chief of police issued pursuant to sub. 3-b, the commissioner of neighborhood services shall charge any premises owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. All costs so charged are a lien upon such premises and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

5. APPEAL Appeal of the determination of the chief of police pursuant to either sub. 3-a or b or the action of the commissioner imposing special charges pursuant to sub. 4 against the premises, may be submitted to the administrative review appeals board as provided by s. 320-11.

APPROVED AS TO FORM

Legislative Reference Bureau
Date:_____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFOCEABLE

Office of the City Attorney

Date: _____

Department of Neighborhood Services

00433-7

jro

11/30/00