



Legislation Text

File #: 170361, Version: 1

170361

SUBSTITUTE 1

051413

ALD. JOHNSON

A substitute ordinance relating to roadside memorials.

116-10 cr

This ordinance provides that roadside memorials may be erected in public places and public ways for not longer than 10 consecutive days. Additionally, while peaceful assembly is respected as a First Amendment right, unlawful activity is not permitted; such activity includes, but is not limited to, the following: loitering on private property outside of the public place or public way, noise contrary to the code, speeding, public intoxication, littering, trespassing, and unpermitted grilling. Mourning hours are 7:00 a.m. to 7:00 p.m. The department of public works may remove memorials prior to the completion of 10 days if guidelines are not adhered to.

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

Part 1. Section 116-10 of the code is created to read:

116-10. Roadside Memorials. 1. DEFINITIONS. In this section:

- a. "Deceased" means any person who was fatally injured in an accident involving a vehicle, regardless of fault or intoxication, by gunfire, or by some other tragic means.
- b. "Department" means the department of public works.
- c. "Immediate family member" means a spouse, partner, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, stepfather, grandparent, or step-grandparent of the deceased.
- d. "Incident" means the fatal injury of a person by an accident involving a vehicle, firearm, or other tragic means.
- e. "Memorial" means a sign, placard, display, exhibit, presentation, arrangement, or object which is designed and constructed for the purpose of commemorating a deceased individual fatally injured at a specific site in the public way. Memorial objects include, but are not limited to, stuffed animals, flowers, balloons, or other object that was meaningful to the deceased.

2. PURPOSE. The purpose of regulating roadside memorials is to:

- a. Provide friends and relatives of a person fatally injured with the opportunity to memorialize that person by placing a memorial near the scene of the tragedy in a safe and orderly manner.
- b. Combat impaired or distracted driving and unlawful use of firearms, and to increase the public's awareness of the need to drive safely and responsibly and use firearms safely and responsibly.

3. LOCATION. A memorial shall not be located on the traveled portion of a public way or public place, as defined in ch. 115, median, traffic island, sidewalk, bicycle path, or multi-use trail. Nor shall a memorial be placed on private property other than the private property of the person erecting the memorial. Persons placing the memorial shall be respectful of adjacent property owners, residents,

and businesses and ensure there is no permanent damage to city property.

4. DURATION. a. The placement of a memorial shall be allowed in the unpaved portion of a public place or public way, as defined in ch. 115, for up to 10 days after an incident as long as both of the following are true:

a-1. The memorial does not cause unsafe conditions for passing motorists or for people who are maintaining or visiting the memorial.

a-2. The memorial and those visiting or maintaining the memorial comply with all other applicable laws.

b. The department may remove a memorial prior to the expiration of the 10-day period at the direction of the Milwaukee police department for failure to comply with applicable laws.

c. Upon becoming aware of the placement of a memorial, the department shall notify the Milwaukee health department office of violence prevention and the Milwaukee police department as needed to make reasonable efforts to contact one or more immediate family members of the deceased to determine whether any particular person is responsible for maintaining the memorial and to inform the family about the provisions of this section, including the requirement that the memorial be removed at the end of a 10-day period.

d. At the end of the 10-day period, the department may remove and dispose of any remaining items from the memorial site, except for unwrapped biodegradable flowers. This provision shall not prevent the department from removing a memorial immediately in response to a threat to public safety.

5. ACTIVITIES. While peaceful assembly is respected as a First Amendment right, memorial activities shall conform to federal, state, county, and city laws. Mourners should be mindful to respect the deceased as well as those living in the neighborhood where the tragedy occurred. Unlawful activities, including but not limited to the following, shall be prohibited:

a. Loitering on private property outside of a public place or public way, as defined in ch. 115.

b. Noise contrary to ch. 80.

c. Speeding.

d. Public intoxication.

e. Littering.

f. Unauthorized parking on private property.

g. Trespassing.

h. Unpermitted grilling.

6. OTHER REGULATIONS. a. A memorial shall not exceed 36 inches in height, length, and depth.

b. Alcoholic beverage containers and unattended lit candles shall be prohibited at the site of a memorial.

c. Assembly hours for the purpose of mourning shall commence not before 7:00 a.m. and shall conclude by 7:00 p.m.

7. EXCEPTION. The commissioner may grant an exception subject to approval by the local common council member of the district in which the memorial is placed.

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: _____

LRB 168302-2

Tea Norfolk

06/30/2017