

Ordinance No. 803-2023

AN EMERGENCY ORDINANCE

By Council Member Starr

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by amending Sections, 674A.01, 674A.02 and 674A.99, as amended by Ordinance No. 242-A-92 passed March 22, 1993, related to late night retail establishments.

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of public peace, property, health, or safety, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by amending Sections 674A.01, 674A.02 and 674A.99, as amended by Ordinance No. 242-A-92 passed March 22, 1993, to read, respectively, as follows:

Section 674A.01 Definitions

As used in this chapter:

(a) “Late night retail establishment” ~~shall mean~~ means any commercial enterprise ~~which that~~ is open at any time between the hours of ~~midnight and 6:00 a.m. 11:00 p.m. and 5:00 a.m. and derives fifty percent (50%) or more of its gross income from the sale of goods, merchandise, including any bar, and any business engaged in the retail sale of groceries, goods, merchandise, and/or gasoline or diesel fuel, or other articles of value, which are sold in their original containers, excluding commercial enterprises which that~~ conduct their business exclusively by means of drive-thru windows made with security glass.

(b) “~~Armed S~~ security guard” ~~shall mean~~ means a person engaged for hire as a ~~watchman, guard, private policeman~~ officer or other person whose primary duty is to protect persons or property or both and is a class A or C licensee, ~~or a registered employee of a class A or C licensee, pursuant to RC Chapter 4749 or a registered employee of same~~, and has met the requirements to carry a firearm under RC 4749.10, and meets all other requirements imposed under RC Chapter 4749 by that chapter, and also meets all relevant requirements that may be imposed by in RC Chapter 109, and is commissioned as an armed security guard under Chapter 670 of these Codified Ordinances, and Chapter 670 of these Codified Ordinances.

Section 674A.02 Security Measures at Late Night Retail Establishments

(a) The owner or person in charge of a late night retail establishment shall provide security measures during any period of time that the late night retail establishment is open for business to the general public between the hours of 11:00 p.m. and 5:00 a.m. ~~midnight and 6:00 a.m.~~

(b) As used in division (a), “security measures” means:

(1) Providing a an armed security guard to patrol the premises, including any parking lot, and otherwise be visible; and ~~or~~

(2) Providing all of the following:

A. A drop-safe on the premises which must weigh at least five hundred (500) pounds or be bolted to the floor; and

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B. A posted sign ~~in the window~~ at the entrance stating that there is a safe on the premises that is not accessible to employees on duty. Such sign shall be placed in a conspicuous place so as not to obstruct the interior of the ~~store~~ establishment from the street; and

C. All cash registers positioned so that they are visible from the street; and

D. A posted sign ~~in the window~~ at the entrance stating that the cash register contains fifty dollars (\$50.00) or less. Such sign shall be placed in a conspicuous place so as not to obstruct the interior of the ~~store~~ establishment from the street; and

E. Sufficient lighting to the entire exterior area of the ~~store~~ establishment that is utilized by employees and patrons. The intensity of the lighting shall be at a minimum of five (5) footcandles per square foot as measured at ground level; and

F. An alarm system on the premises and available for use by employees in case of emergency which transmits a signal to an alarm system company which will alert the Division of Police of the emergency. Such system must be maintained in proper working order at all times; and

G. ~~If fewer than two (2) employees are working at any time between the hours of midnight and 6:00 a.m., a video monitoring and recording system on the premises of a type approved by the Chief of Police which monitors the interior area of the store. An interior and exterior security camera system that is registered with the City's camera registry and integrated with the City's Real Time Crime Center and the Department of Public Safety. Such system must be capable of immediately producing a retrievable image on film or tape that can be a permanent record and that can be enlarged through projection or other means. Such system must be maintained in proper working order at all times; ; and~~

H. A cash management policy to limit the cash on hand after 11:00 p.m.; and

I. A late night retail establishment shall not have window tinting that reduces exterior or interior view in a standard line of sight.

(c) If a murder, robbery, sexual battery, aggravated assault, aggravated battery, or kidnapping or false imprisonment, as those crimes are defined under these Codified Ordinances and/or Ohio law, occurs at a late night retail establishment any time after the effective date of this ordinance, and arises out of operations of the late night retail establishment's business, the late night retail establishment shall implement at least one of the following security measures:

(1) Provide at least four (4) armed security guards on the premises any time the establishment is open for business between the hours of 11:00 p.m. and 5:00 a.m.; or

(2) Lock the establishment premises at all times when transacting business between the hours of 11:00 p.m. and 5:00 a.m., and only transact business through an indirect pass-through trough, trapdoor or window; or

(3) Close the establishment at all times after 11:00 p.m. and before 5:00 a.m.

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Section 674A.99 Penalty

Whoever violates the provisions of Section 674A.02 shall be guilty of a misdemeanor of the ~~fourth~~ first degree.

Section 2. That Sections 674A.01, 674A.02 and 674A.99, as amended by Ordinance No. 242-A-92 passed March 22, 1993, are hereby repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

RS:rns
7-12-2023

