..Number
060074
..Version
PROPOSED SUBSTITUTE A
..Reference

..Sponsor
ALD. D'AMATO
..Title
A substitute ordinance relating to the hours of operation of Class "B" tavern licensees.
..Sections
90-4-7.8-d am
90-4-7.8-e am
90-5-1-c-2-a am
90-5-1-c-2-i rn
90-5-1-c-2-i cr
90-15-3-c cr
..Analysis
This ordinance permits restrictions on the hours of operation of Class "B" tavern outdoor premises including beer gardens and sidewalk café areas. Restrictions in hours of operation may be applied to temporary extensions located within 300 feet of a zoned residential district, and to permanent extended outdoor premises located within 300 feet of a residential district as defined in s. 295-201-497. Unless a different restriction on hours is approved by the common council considering the health, welfare, safety and good order of the surrounding neighborhood, outdoor licensed premises shall cease operations at 10:00 p.m. unless all instrumental, live, recorded or other performance, audible upon adjacent properties, has ceased, in which event, the hours of operation of an outdoor area may continue until the close of operations on the remaining premises.
..Body
The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 90-4-7.8-d and e of the code is amended to read:

90-4. Classification of Licenses.

7.8. TEMPORARY EXTENSION OF LICENSED PREMISES FOR SPECIAL EVENTS.

d. Application. Application for the temporary extension of licensed premises shall be made in writing to the city clerk on forms provided by the city clerk. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation, and shall be sworn to by the applicant. The application shall contain the name of the licensee, the address of the existing licensed premises (including the aldermanic district in which it is situated), the particular event or function for which the temporary extension of the licensed premises is sought, the date and period of time sought for the temporary extension of the licensed premises, a specific description of the area for which the temporary extension is sought, >><u>the proposed hours of</u>

operation of any outdoor extended area,<<and such other reasonable and pertinent information as the common council or proper licensing committee of the common council may require. The application shall be filed at least 3 days prior to the date of granting by the common council. The city clerk shall forward all applications to the [[~~utilities and~~]] licenses committee of the common council.

e. Committee Action. The [[~~utilities and~~]] licenses committee shall hold a hearing on whether or not to grant each application for a temporary extension of licensed premises for special events. If any interested person objects to the granting of a particular application, then the licensee shall receive at least 3 days notice of the hearing date and the nature of the objection to the application. The applicant shall have an opportunity to appear at the hearing and be represented by counsel and to cross-examine witnesses opposed to the granting of the application for temporary extension of the licensed premises and to present evidence in favor of the granting of the application. At the conclusion of the hearing, the committee shall make a recommendation to the common council on whether or not to grant the application. In making its recommendation, the committee may consider, among other factors, the appropriateness of the location for which a temporary extension of licensed premises is sought, whether such location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. >>The committee may include a recommendation that the hours of operation proposed for any area subject to a temporary extension be shortened.<< The common council shall act on the committee's recommendation without further hearing.

Part 2. Section 90-5-1-c-2-a of the code is amended to read:

90-5. Licensing.

1. APPLICATION: FORM AND CONTENTS.

c. Additional requirements.

c-2. Plan of Operation.

c-2-a. The current or planned hours of operation for the premises >>, including the hours proposed for operation of outdoor areas if later than 10:00 p.m<<.

Part 3. Section 90-5-1-c-2-i of the code is renumbered 90-5-1-c-2-j.

Part 4. Section 90-5-1-c-2-i of the code is created to read:

c-2-i. Whether or not any outdoor area proposed for inclusion in the plan for licensed premises of a Class “B” tavern is located within 300 feet of a residential district as defined in s. 295-201-497.

Part 5. Section 90-15-3-c of the code is created to read:

90-15. Hours of Operation.

3. CLASS “B” FERMENTED MALT BEVERAGE AND INOXICATING LIQUOR RETAILER LICENSES OR CLASS “B” SERVICE BAR LICENSE.

c. Hours for Operation of Outdoor Areas. Unless the common council provides otherwise, taking into account the health, welfare, safety and good order of the surrounding neighborhood, no licensee shall operate any outdoor area of licensed premises, located within 300 feet of a residential district as defined in s. 295-201-497 at the time of initial application, after the hour of 10:00 p.m., with the exception of outdoor areas from which no instrumental, live, recorded or other performance is audible upon adjacent properties, in which case such areas shall cease operation not later than the closing times established in this subsection.

APPROVED AS TO FORM

_____
Legislative Reference Bureau
Date: _____
..Attorney

IT IS OUR OPINION THAT THE ORDINANCE IS LEGAL AND ENFORCEABLE

_____
Office of the City Attorney
Date: _____

..Requestor

..Drafter
LRB06039-4
RLW
6/6/2006