



Legislation Details (With Text)

File #: 091206 **Version:** 2
Type: Ordinance **Status:** Passed
File created: 12/22/2009 **In control:** LICENSES COMMITTEE
On agenda: **Final action:** 5/4/2010
Effective date:

Title: A substitute ordinance relating to implementation of recommendations of the alcohol beverage licensing task force for holding hearings to the call of the licensing committee chair, procedures for taking testimony and consideration of concentration maps.

Sponsors: ALD. HINES JR., ALD. BOHL, ALD. COGGS

Indexes: ALCOHOL - REGULATION AND LICENSING, LICENSES COMMITTEE

Attachments: 1. Fiscal Note, 2. Hearing Notice List, 3. Notice Published on 5-20-10

Date	Ver.	Action By	Action	Result	Tally
12/22/2009	0	COMMON COUNCIL	ASSIGNED TO		
3/18/2010	0	CITY CLERK	Sponsor added		
3/25/2010	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
3/25/2010	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
3/26/2010	1	CITY CLERK	DRAFT SUBMITTED		
3/29/2010	0	LICENSES COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	3:0
4/14/2010	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
4/14/2010	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
4/14/2010	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
4/20/2010	1	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
4/20/2010	1	CITY CLERK	Sponsor added		
5/4/2010	1	COMMON COUNCIL	PASSED		14:0
5/4/2010	2	COMMON COUNCIL	PASSED	Pass	14:0
5/4/2010	1	COMMON COUNCIL	AMENDED	Pass	14:0
5/4/2010	2	CITY CLERK	DRAFT SUBMITTED		
5/10/2010	2	MAYOR	SIGNED		
5/20/2010	2	CITY CLERK	PUBLISHED		

091206
SUBSTITUTE 2

ALD. HINES, BOHL AND COGGS

A substitute ordinance relating to implementation of recommendations of the alcohol beverage licensing task force for holding hearings to the call of the licensing committee chair, procedures for taking testimony and consideration of concentration maps.

85-4-2-c am
90-5-8-a-11 cr
90-5-8-c-1-c am
90-11-2-b-2-g rn
90-11-2-b-2-g cr
90-12-5-b-3 am

The common council established an alcohol beverage licensing task force with the adoption of common council resolution file # 080461, July 30, 2008. The report and recommendations of the task force were presented to the common council on April 30, 2009.

This ordinance addresses several of the recommendations of the task force relating to holding hearings for new and renewal licenses of Class "A," Class "B" and Class "C" retail establishments to the call of the licensing committee chair, procedures for taking testimony in contested matters, and the introduction of maps depicting the concentration of licensed premises.

For Class "A," Class "B" and Class "C" retail license procedures, unless expressly provided elsewhere in the code, the chair shall advise the licensee and parties seeking nonrenewal, suspension or revocation of the license that each side will be limited to 30 minutes for testimony and oral argument. This time may be extended by the chair, subject to approval by the committee, if additional time is necessary for a full and fair presentation of the facts and arguments. When permitted by the chair, questioning by committee members and relevant responses shall not count against the time limitation.

The task force recommended that revisions to alcohol licensing procedures be considered for other types of licenses and permits. Accordingly, this ordinance amends the procedures in ch. 85 for licensing for those licenses and permits for which the applicant or licensee has a right to make an oral presentation before the full common council.

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

Par 1. Section 85-4-2-c of the code is amended to read:

85-4. Hearing Procedure.

2. COMMITTEE HEARING PROCEDURE.

c. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this section. The chair shall open the hearing with a statement that a notice was sent to the applicant, and, if the applicant appears, shall further inquire whether the notice was received. >>Unless expressly provided elsewhere in this code, the chair shall advise the licensee and parties seeking nonrenewal, suspension or revocation of the license that each side will be limited to 30 minutes for testimony and oral argument. This time may be extended by the chair, subject to approval by the committee, if additional time is necessary for a full and fair presentation of the facts and arguments. When permitted by the chair, questioning by committee members and relevant responses shall not count against the time limitation.<< In the event that the applicant does not admit receipt of the notice and also denies knowledge of the contents of the notice, the chair shall ascertain whether the applicant wishes to immediately proceed to a full hearing or whether the applicant wishes the matter to be held to the call of the chair or to a time certain. The decision to proceed or to hold the matter shall be made by the committee.

Part 2. Section 90-5-8-a-11 of the code is created to read:

90-5. Licensing.

8. COMMITTEE ACTION

a. Notice.

a-11. If the chair should at any time determine that a hearing is or will be contested, the chair will announce that a time limit of 30 minutes shall be provided opponents of the proposed license and a time limit of 30 minutes for the applicant and supporters of the proposed license. This time will be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair should determine, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing. The applicant shall have the privilege of using any portion of applicant's 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

Part 3. Section 90-5-8-c-1-c of the code is amended to read:

c. Recommendations.

c-1-c. Whether there is an over-concentration of licensed establishments in the neighborhood. >>A concentration map placed in the applicant's file prior to certification for hearing may be admitted to the record upon motion of any interested party. <<

Part 4. Section 90-11-2-b-2-g of the code is renumbered s. 90-11-2-b-2-h.

Part 5. Section 90-11-2-b-2-g of the code is created to read:

90-11. Renewal of License.

2. PROCEDURE FOR NONRENEWAL.

b. Hearing.

b-2-g. If the chair should at any time determine that a hearing is or will be contested, the chair will announce that a time limit of 30 minutes shall be provided opponents of the license renewal and a time limit of 30 minutes for the applicant and supporters of the license renewal. This time will be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair should determine, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public

supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing.”

The applicant shall have the privilege of using any portion of applicant’s 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

Part 6. Section 90-12-5-b-3 of the code is amended to read:

90-12. Revocation or Suspension of Licenses.

5. PROCEDURES FOR REVOCATION OR SUSPENSION.

b. Committee Hearing.

b-3. At any evidentiary hearing required by this subsection, the city attorney shall first present evidence in support of the complaint. After the city attorney rests, the licensee shall present evidence in opposition to the complaint. Each may subpoena witnesses. All witnesses shall testify under oath and shall be subject to cross-examination under oath. >>The city attorney and the licensee shall each be limited to 30 minutes for testimony and oral presentation unless the chair, subject to approval of the committee, extends the time to assure a full and fair presentation. Questions by committee members and responses to member’s questions shall not be counted against the time limitations.<<At the close of the testimony, each shall be given a reasonable time to make arguments upon the evidence adduced at the hearing.

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: _____

LRB09350-6 as amended
RLW
5/4/2010