



Legislation Text

File #: 050071, Version: 1

050071
SUBSTITUTE 1

ALD. HINES, WITKOWIAK AND BOHL

A substitute ordinance relating to standards for the issuance of warning letters to new and renewal applicants for certain alcohol beverage licenses and requiring written objections for hearings on certain renewal applications.

90-5-8-a-1 am

90-5-8-a-2 am

90-5-8-a-3 rn

90-5-8-a-3 cr

90-5-8-a-4 rn

90-5-8-a-4 cr

90-5-8-a-5 rn

90-5-8-a-5 cr

90-11-1 rc

90-11-3 rp

90-11-5 rp

90-11-6 rp

90-11-7 rn

90-11-8 rn

This ordinance establishes standards for the issuance by the city clerk of warning letters to new and renewal applicants for alcohol beverage establishment licenses and manager and operator licenses, except new applicants for alcohol beverage retail establishment licenses, in lieu of forwarding applications to the licensing committee for hearings on whether the applications should be recommended for approval or denial to the common council. However, if a written objection to a particular application is filed by any interested party, the application shall be forwarded to the licensing committee for a hearing. In addition, this ordinance establishes that a written objection setting forth a legally valid basis for nonrenewal is required before any hearings are scheduled on renewal applications for alcohol beverage retail and wholesale establishment licenses and manager and operator licenses.

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

Part 1. Section 90-5-8-a-1 and 2 of the code is amended to read:

90-5. Licensing.

8. COMMITTEE ACTION. a. Notice. a-1. Applications for Class "D" operator's licenses shall be referred to the chief of police for review. If the police chief files no written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the license shall be forwarded to the common council for approval. If the chief of police files a written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the application>>_1

except as provided in subd. 3, << shall be forwarded to the proper licensing committee of the common council for its recommendation as to whether or not each license should be issued.

a-2. Applications for all new Class "A" or Class "B" retail licenses, Class "B" manager's licenses and Class "C" wholesale licenses shall >>, except as provided in subd. 3, << be referred to the appropriate licensing committee of the common council for its recommendation as to whether or not each license should be issued. In addition, applicants for all new Class A or Class B retail licenses are required to appear before the licensing committee at the date, time and place specified in written notice provided to the applicant by the city [[clerks]] >> clerk's << office. If the applicant is a corporation or limited liability corporation, a duly authorized agent or legal representative of the corporation is required to appear before the licensing committee. All applicants may be represented by a legal representative before the licensing committee.

Part 2. Section 90-5-8-a-3 to 5 of the code is renumbered 90-5-8-a-6 to 8.

Part 3. Section 90-5-8-a-3 to 5 of the code is created to read:

a-3. If the chief of police files a written report summarizing the arrest and convictions of an applicant for a new operator's license, alcohol beverage wholesale establishment license or manager's license which could form the basis for denial of the application, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under subds. 1 and 2, refer the application to the common council for approval and issue a warning letter to the applicant whenever all of the following are true:

a-3-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

a-3-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense or municipal ordinance violation.

a-3-c. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

a-3-d. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

a-3-e. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

a-3-f. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

a-4. In determining the eligibility of the applicant to be issued a warning letter under subd. 3, the city clerk shall not consider either of the following:

a-4-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

a-4-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

a-5. Notwithstanding the provisions of subds. 3 and 4, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee if a written objection to the application is filed by any interested party.

Part 4. Section 90-11-1 of the code is repealed and recreated to read:

90-11. Renewal of Licenses.

1. PROCEDURE FOR RENEWAL. a. General. Applications for the renewal of alcohol beverage retail and wholesale establishment licenses and manager and operator licenses shall be made to the city clerk on forms provided therefor. The city clerk shall refer all applications for license renewal to the chief of police, and, excepting applications for manager's and operator's licenses, to the commissioner of neighborhood services and the commissioner of health for their review. If the chief of police and, when applicable, the commissioner of neighborhood services and commissioner of health indicate that the applicant still meets all of the licensing qualifications, the application shall be referred to the common council for approval.

b. Objection. A written objection to the renewal of the license may be filed with the city clerk by any interested person provided that the objection is filed at least 30 days prior to the date on which the license expires and sets forth specific charges against an applicant which could form a basis for nonrenewal of the license. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application, except as provided in par. c, shall be forwarded to the licensing committee for a hearing on whether the application should be recommended for approval or denial to the common council.

c. Warning Letter. c-1. If the chief of police files a written report summarizing the arrest and convictions of an applicant for renewal of an operator's license, alcohol beverage wholesale establishment license or manager's license which could form a basis for nonrenewal of the application, and if no written objection has been filed under par. b, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under par. b, refer the application to the common council for approval and issue a warning letter to the applicant whenever all of the following are true:

c-1-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

c-1-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense or municipal ordinance violation.

c-1-c. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

c-1-d. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

c-1-e. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

c-1-f. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

c-2. In determining the eligibility of the applicant to be issued a warning letter under this paragraph, the city clerk shall not consider either of the following:

c-2-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

c-2-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

d. Notwithstanding the provisions of subds. 1 and 2, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee for a hearing if a written objection to the renewal is filed by any interested party.

e. Nonoperating Premises. Any holder of an alcohol beverage retail establishment license who has ceased operations at the premises specified on the license shall only be permitted to apply for and

obtain one renewal license for the premises, provided that the holder of the license is residentially and in all other respects qualified to make the application. The license shall not be renewed if the licensed premises shall have been inoperative for more than one complete license year; however, the common council may waive this provision in unusual circumstances.

Part 5. Section 90-11-3, 5 and 6 of the code is repealed.

Part 6. Section 90-11-7 and 8 of the code is renumbered 90-11-2 and 3.

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:_____

LRB05108-2

TWM:mbh

6/28/2005