



Legislation Text

File #: 221471, Version: 2

221471

PROPOSED SUBSTITUTE

ALD. COGGS

A substitute ordinance relating to the standard of proof required for nonrenewal, suspension and revocation of licenses.

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| 75-23-20-c | am |
| 85-2.7-4-0 | am |
| 85-4-4-0 | am |
| 85-20-2 | am |
| 85-20-2-b | cr |
| 90-5-8-c-1-0 | am |
| 90-11-2-c-1-0 | am |
| 90-37-5-e-0 | am |
| 90-37-10-d | am |
| 93-25-4-0 | am |
| 95-14-9-d-0 | am |
| 108-11-3 | am |

This ordinance clarifies the standard of proof required for the nonrenewal, suspension and revocation of licenses. Currently, the committee uses the preponderance of the evidence as the standard of proof during hearings, but there is no standard specified by the code to be used when considering nonrenewal, suspension and revocation of licenses, only stating that decisions shall be based on the evidence presented. This ordinance specifies that decisions shall be based on the preponderance of evidence presented. In addition, the ordinance allows the city clerk to issue a provisional renewal to a licensee if an application is being held in committee.

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

Part 1. Section 75-23-20-c of the code is amended to read:

75-23. Tattooing and Body-Piercing.

20. DUE PROCESS HEARING.

c. The decision of the board regarding the appellant shall be based only on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning whether or not the appeal should be upheld may be presented on the factors enumerated in sub. 9-b or 11-a, whichever is applicable.

Part 2. Section 85-2.7-4-0 of the code is amended to read:

85-2.7. Hearing Procedure, New License.

4. RECOMMENDATION. The recommendation of the committee regarding the applicant shall be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence

concerning whether or not the license should be granted may be presented on the following subjects:

Part 3. Section 85-4-4-0 of the code is amended to read:

85-4. Hearing Procedure; Nonrenewal, Suspension or Revocation.

4. GROUNDS FOR NONRENEWAL, SUSPENSION OR REVOCATION. The recommendations of the committee regarding the applicant shall be based on >>the preponderance of<< evidence presented at the hearing. Unless otherwise specified in the code, probative evidence concerning nonrenewal, suspension or revocation may include evidence of:

Part 4. Section 85-20-2 of the code is amended to read:

85-20. Provisional Renewal Licenses

2. ~~[[EXCEPTION]]~~ >>EXCEPTIONS<<.

>>a.<< If a licensee files a renewal application by the date established by the city clerk but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license and the licensee shall not be subject to pars. 1-c and d.

Part 5. Section 85-20-2-b of the code is created to read:

b. If an application is held in committee, the city clerk may issue a provisional renewal license, and the licensee shall not be subject to pars. 1-c and d.

Part 6. Section 90-5-8-c-1-0 of the code is amended to read:

90-5. Licensing.

8. COMMITTEE ACTION.

c. Recommendations.

c-1. The recommendations of the committee regarding the applicant ~~[[must]]~~ >>shall<< be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

Part 7. Section 90-11-2-c-1-0 of the code is amended to read:

90-11. Renewal of License.

2. PROCEDURE FOR NONRENEWAL.

c. Recommendation.

c-1. The recommendation of the committee regarding the applicant ~~[[must]]~~ >>shall<< be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning nonrenewal may include evidence of:

Part 8. Section 90-37-5-e-0 of the code is amended to read:

90-37. Centers for the Visual and Performing Arts.

5. ISSUANCE.

e. The recommendations of the committee regarding the applicant ~~[[must]]~~ >>shall<< be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning whether

or not the license should be granted may be presented on the following subjects:

Part 9. Section 90-37-10-d of the code is amended to read:

10. REVOCATION.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking >>the preponderance of<< evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed revocation.

Part 10. Section 93-25-4-0 of the code is amended to read:

93-25. Renewal, Nonrenewal, Revocation or Suspension.

4. PROBATIVE EVIDENCE. The recommendation of the committee ~~[[regarding]]~~ >>concerning<< the licensee shall be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence of:

Part 11. Section 95-14-9-d-0 of the code is amended to read:

95-14. Home Improvement Contractor and Salesperson Licenses.

9. PROCEDURES FOR NONRENEWAL, REVOCATION OR SUSPENSION OF LICENSE.

d. Grounds for Nonrenewal, Revocation or Suspension. The recommendation of the committee regarding the licensee ~~[[must]]~~ >>shall<< be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence of:

Part 12. Section 108-11-3 of the code is amended to read:

108-11. Nonrenewal, Revocation or Suspension of Licenses.

3. GROUNDS FOR NONRENEWAL, SUSPENSION OR REVOCATION. The recommendation of the committee regarding the licensee shall be based on >>the preponderance of<< evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence of circumstances ~~[[cited]]~~ >>specified<< in s. 85-4-4.

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 177780-3
Christopher Hillard
2/13/2022