



Legislation Details (With Text)

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Title: A substitute ordinance relating to evidence presented at alcohol beverage license hearings.
Sponsors: ALD. BOHL
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11/23/2010	0	COMMON COUNCIL	ASSIGNED TO		
12/21/2010	0	LICENSES COMMITTEE	RECONSIDERED		4:0
12/21/2010	0	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
12/21/2010	0	COMMON COUNCIL	PASSED	Pass	15:0
12/21/2010	1	CITY CLERK	DRAFT SUBMITTED		
1/5/2011	0	MAYOR	SIGNED		
1/12/2011	0	CITY CLERK	PUBLISHED		

101024
SUBSTITUTE 1

ALD. BOHL

A substitute ordinance relating to evidence presented at alcohol beverage license hearings.

90-5-7 am

90-5-8-a-2-e cr

90-5-8-a-2-f cr

90-5-8-b-2-b rn

90-5-8-b-2-b cr

90-5-8-b-2-c rn

90-5-8-b-2-c am

90-5-8-b-2-d rn

90-5-8-b-2-e rn

90-5-8-b-2-f rn

90-11-2-b-2-a rn

90-11-2-b-2-a cr

90-11-2-b-2-b rn

90-11-2-b-2-c rn

90-11-2-b-2-d rn

90-11-2-b-2-e rn

90-11-2-b-2-f rn

90-11-2-b-2-g rn
90-11-2-b-2-h rn
90-11-2-c-1-c am
90-12-5-a-0 am
90-12-5-a-3 cr
90-12-5-b-3 rc
90-12-5-b-4 am

This ordinance revises procedures for notice and introduction of police reports at committee hearings on applications for new alcohol beverage licenses. These revisions include the following:

1. Reference is no longer made to information relating to calls for service as a part of the report to be provided by the chief of police.
2. Reports offered by the chief of police shall be introduced into evidence and made a part of the permanent record without motion, but shall remain subject to rebuttal of any facts set forth in the report.
3. Synopsis reports relating to previous licensees at the premises proposed for new licensing shall be included in the report offered by the chief of police.

The ordinance also revises the procedures for renewal and nonrenewal of alcohol beverage licenses as follows:

1. The report offered by the chief of police shall include information summarizing any police investigation or actions related to the licensed premise or its patrons.
2. The report offered by the chief of police shall be admitted into evidence and made a part of the record without motion.
3. Records and reports of the police department admitted to the permanent record of the hearing shall be subject to rebuttal, argument and deliberation.

In addition, the ordinance revises procedures for the revocation and suspension of licenses as follows:

1. A report shall be prepared by the chief of police; a copy of the report of the chief of police shall be served on the licensee within 3 working days prior to the hearing.
2. Rulings made by the chair are final if not reversed by a majority of committee members present and voting.

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

Part 1. Section 90-5-7 of the code is amended to read:

90-5. Licensing.

7. INVESTIGATION. All applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to

be made and report their findings to the licensing committee of the common council. The report provided by the chief of police shall include information ~~[[describing the circumstances of any calls for service or criminal activity]]~~ >>related to any criminal or ordinance convictions and any pending criminal charges and ordinance citations of the applicant. The chief of police shall also provide copies of any licensed premise synopsis reports relating to licensed premises previously located at << ~~[[or criminal activity occurring on]]~~ the premises proposed for licensing as a Class "A," Class "B" or Class "C" retail establishment ~~[[associated with the premises]]~~ during the 5-year period prior to the date of application. ~~[[The report shall include information related to the criminal and ordinance violation history of the applicant, if any.]]~~

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

8. COMMITTEE ACTION.

a. Notice.

a-2-e. An applicant for a new alcohol beverage retail establishment license shall appear before the licensing committee at the date, time and place specified in written notice provided to the applicant by the city clerk's office. The notice shall be accompanied by a copy of any written report prepared as a result of investigation under sub. 7, and shall further be accompanied by copies of previous licensed premise reports relative to the premises in the 5-year period prior to the date of application.

a-2-f. If the applicant is a corporation or limited liability company, a duly authorized agent or legal representative of the corporation shall appear before the licensing committee. All applicants may be represented by legal representatives before the licensing committee.

Part 3. Section 90-5-8-b-2-b to f of the code is renumbered 90-5-8-b-2-c to g.

Part 4. Section 90-5-8-b-2-b of the code is created to read:

b. Hearing.

b-2-b. Any report prepared under sub. 7 and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admissible and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness.

Part 5. Section 90-5-8-b-2-c of the code is amended to read:

b-2-c. The ~~[[chairman]]~~>>chair << shall >>then<<ask those opposed to the granting of a license to proceed ~~[[first]]~~.

Part 6. Section 90-11-2-b-2-a to h of the code is renumbered 90-11-2-b-2-b to i.

Part 7. Section 90-11-2-b-2-a of the code is created to read:

90-11. Renewal of License.

2. PROCEDURE FOR NONRENEWAL.

b. Hearing.

b-2-a. Any report prepared as the result of a review required under sub. 1-a and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admitted and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness. The chief of police shall offer a written report summarizing any criminal or ordinance convictions or pending criminal charges or ordinance citations of an applicant for license renewal. The report offered by the chief of police shall also include information summarizing any police investigation or action related to the licensed premise or its patrons.

Part 8. Section 90-11-2-c-1-c of the code is amended to read:

c. Recommendation.

c-1-c. The appropriateness of tavern location and premises. >>Evidence of the appropriateness of the location may be included in the report provided by the chief of police or chief's designee under par. b-2-a.<<

Part 9. Section 90-12-5-a-0 of the code is amended to read:

90-12. Revocation or Suspension of Licenses.

5. PROCEDURES FOR REVOCATION OR SUSPENSION. a. Complaint; Summons; >>Report<<.

Part 10. Section 90-12-5-a-3 of the code is created to read:

a-3. The chief of police shall prepare a report with information relating to the allegations contained in the written charges or complaint. The report shall first state whether the chief of police has information relating to the allegations contained in the written charges or complaint. The report may be offered and made part of the permanent record of the hearing without motion. Information contained in the report shall be admissible and may be considered by the committee as a public record to the extent that the information in the report sets forth the activities of department personnel, or provides information about matters observed by police personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness. A copy of the report shall be provided to the licensee at least 3 days prior to the time scheduled for appearance upon the summons and complaint.

Part 11. Section 90-12-5-b-3 of the code is repealed and recreated to read:

b. Committee Hearing.

b-3. The procedure at evidentiary hearing shall be as follows:

b-3-a. The chief of police or complainant shall first present evidence in support of the complaint. The chief of police or complainant may offer the report prepared under par. a-3.

b-3-b. After the chief of police or complainant rests, the licensee may present evidence in opposition to the written charges or complaint.

b-3-c. The chief of police or complainant and the licensee may subpoena and present witnesses. All witnesses shall testify under oath and shall be subject to cross-examination.

b-3-d. The chief of police or complainant 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.

b-3-e. Questions by committee members and responses to members' questions shall not be counted against the time limitations.

b-3-f. At the close of the testimony, the chief of police or complainant and the licensee shall be given a reasonable time to make arguments upon the evidence produced at the hearing.

Part 12. Section 90-12-5-b-4 of the code is amended to read:

b-4. The ~~[[chairman]]>>~~chair<< of the licensing committee shall be the presiding officer. The ~~[[chairman]]>>~~chair<< shall direct that oaths be administered and subpoenas issued upon request of either side. The ~~[[chairman]]>>~~chair<< shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. The ~~[[chairman]]>>~~chair<< shall rule on objections to the admissibility of evidence. Any ruling of the ~~[[chairman]]>>~~chair<< shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members >>present and voting<<.

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 W121762-6
DLW
12/17/2010

clerical correction 12-22-10 -- lp