

St. Louis City Ordinance 62566

FLOOR SUBSTITUTE

BOARD BILL NO. [91] 355

INTRODUCED BY ALDERMAN DANIEL GRUEN , DANIEL MCGUIRE"> ,
MARIT CLARK

An ordinance pertaining to Bed and Breakfast Establishments; providing regulations for said establishments, including neighborhood consent petition.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. No person shall own, operate or maintain a Bed and breakfast homestay, a Bed and breakfast guesthouse, or a Bed and breakfast inn as defined in the Zoning Code without obtaining a permit from the Board of Public Service and a graduated business license from the License Collector.

SECTION TWO. Plat and Petition. No person shall own, operate or maintain a Bed and breakfast homestay, a Bed and breakfast guesthouse or a Bed and breakfast inn in an area not within a Bed and Breakfast District without first submitting the following application plat and petition to the Board of Public Service, which application shall contain:

A. Name and address of owner of premises and if a Bed and breakfast inn the name and address of the manager also. All changes shall be reported within thirty days after the change.

B. A diagram of the premises clearly showing all rooms in the premises and their proposed uses. All changes must be reported within thirty days after the change.

C. Location and number of any off-street parking spaces.

D. Address and manager of any other bed and breakfast establishments in the City owned or operated by the applicant.

E. A written petition in favor of the issuance of the license, signed by a majority of the persons, if any, residing or conducting any business within the prescribed petition circle drawn by a radius of three hundred fifty feet plus one-half the width of the front of the premises from the center of the premises projected to the streets.

1) A neighborhood consent petition shall not be required for successive yearly renewal licenses for the same license on the same premise.

2) A new petition is required if the premise is to be used for a different type of bed and breakfast establishment than stated in the original petition or upon a change in ownership of the operation or the premises.

3) No neighborhood consent petition shall be required for any bed and breakfast establishment that is located within a Bed and Breakfast District.

4) A person shall be considered to reside within the petition circle of a premises for which an application for bed and breakfast establishment has been submitted to the Board of Public Service if: (a) his domicile is within the petition circle; and (b) he is registered to vote from an address within the petition circle on the date on which an application is filed.

5) A person shall be considered to conduct a business within the petition circle if he is engaged in any business or professional activity on the main or surface floor of a building and if he leases or rents space for such purpose, or owns property used for such purpose, within the petition circle. Where a corporation is conducting business within the petition circle, the signature of the local managing officer shall, for purposes of this ordinance, be considered the signature of a person conducting businesses within the petition circle.

6) Each neighborhood consent petition form shall contain the following information: (a) the name of the person(s) applying for the license; (b) the address of the premises for which the license is sought; (c) the name under which the licensee shall conduct business at the premises for which an application has been submitted; (d) where the applicant is a corporation, the name of the person who will be the managing officer of the licensed premises if the application is granted; (e) the number of guestrooms to be used; (f) the number of off-street parking spaces available; (g) a statement that the application is on file and may be viewed at the office of the Secretary of the Board of Public Service; and (h) such additional information as may be required under the rules and regulations of the Board of Public Service. No signature appearing on a neighborhood consent petition shall be considered valid unless the name and address of the person who signed the petition is printed on the face of the petition next to his signature. The petition shall be on a form provided by the Board of Public Service and said Board, or its delegate, shall certify the signature and the petition.

F. Unless there is good cause shown therefore, if the neighborhood approval petition required by this section is not filed within forty-five (45) days after the application has been filed, the application shall be void.

SECTION THREE. Rules, Regulations and Requirements. The following rules, regulations and requirements shall apply to the designated establishments, and no person shall own, operate, manage, or maintain a establishment that violates said rules, regulations and requirements.

1. Bed and breakfast homestay.

a. No health, building or occupancy inspection or permits or certificate of inspection for change of guests required.

b. No employees permitted except for periodic guestroom cleaning service.

c. No exterior signage permitted, except if the homestay is within a Bed and Breakfast District, the provisions of Subsection 2.b. shall apply.

d. Owner must occupy and manage bed and breakfast homestay and must be present while it is in operation.

e. No guestrooms may contain cooking facilities.

f. Maximum stay for each guest shall be 14 consecutive days.

g. Guestbook must be maintained and open to inspection by city, which gives guests' names, home addresses, dates and rooms occupied.

h. No other business may be operated from premises, including but not limited to catering, wedding receptions or private parties.

i. Interior residential features must be retained in a manner that will allow reconversion to a residential use.

j. The use shall not be detrimental to the neighborhood.

2. Bed and breakfast guesthouse.

a. One off-street parking space for every two guest rooms is required, unless waived by the Board of Public Service for good cause shown.

- b. One attached non-illuminated or indirectly illuminated exterior sign no larger than four square feet maybe permitted.
- c. Occupancy permit required.
- d. Commercial kitchen not required but inspection of kitchen required.
- e. No guestrooms may contain cooking facilities.
- f. Owner must occupy and manage bed and breakfast and must be present while it is in operation.
- g. Maximum stay for each guest shall be 14 consecutive days.
- h. Guestbook must be maintained, and open to inspection by City, which gives guests' names, home address, dates and rooms acquired.
- i. No other business may be operated from premises, including but not limited to catering, wedding receptions or private parties.
- j. All building and health code requirements must be met.
- k. The use shall not be detrimental to the neighborhood.
- l. Interior residential features must be retained in a manner that will allow reconversion to a residential use.

3. Bed and breakfast inn.

- a. Must meet requirements of a, b, c, g, h, j and k of subsection 2 above.
- b. Commercial kitchen, unless waived by the Board of Appeals for good cause shown, must conform to the requirements of the St. Louis Building and Fire Prevention Codes.

SECTION FOUR. Applications-Notices-Hearings.

A. Upon request and submission of a plat to the Board of Public Service, the Secretary shall give the applicant a petition form for a bed and breakfast establishment.

B. After the filing of the completed application with plat and petition, the Board of Public Service shall fix a date for a hearing on the application.

C. The Board shall, at least fifteen (15) days before the date for which such hearing is scheduled, cause to be mailed or delivered to the applicant and to the Alderman of the ward in which the licensed premises would be located, to the police department, and to all addresses within the petition circle notice of the time, place and date of said hearing. If the proposed use also requires the issuance of a conditional use permit, the procedures required by Section 26.80.10 of the Zoning Code shall be conducted concurrently with the procedures required by this Chapter, so that in no case shall two (2) separate Board of Public Service hearings be required. In addition, the Zoning Administrator shall cause a placard containing the words "HEARING ON BED AND BREAKFAST ESTABLISHMENT", printed in bold black letters at least 1 1/2 inches in height, to be placed at each end of the block on the side of the street where the applicant proposes to locate the establishment, unless such placement is not possible. If it is not possible to place said placards in the manner specified in the preceding sentence, the person posting the placards shall place the placards in such manner as to give the greatest notice to passersby of the hearing on the application. Said placards shall specify in clear and legible lettering the time, place and date of the hearing, the name of the applicant, the address of the premises proposed to be licensed, and the type of license applied for. Applicants shall deposit cash or its equivalent with the Board in sufficient amount, as set by said Board to pay the costs of placarding and mailing required by this subsection. Money deposited with the Board for this purpose shall be deposited by the Board in a special account established by the Board for such purpose. Such account shall be held in the name of the Board who shall use the funds held therein only for the purposes specified in this section. Any resulting deficit shall be charged back, and any overage shall be refunded, to the applicant.

D. At such hearing, the applicant shall be entitled to produce testimony under oath and to be represented by counsel, and the Board shall have the power to subpoena witnesses and to take testimony under oath pertaining to all matters connected with the application. Any person owning any property, or any persons residing or conducting business, within the petition circle shall have the right to produce witnesses and testimony. The Alderman for the Ward in which the licensed premises would be located and the police department shall also have the right to be heard at the hearing. The Board may continue all or part of an application hearing if necessary to conclude the investigation of an application.

SECTION FIVE. License Approval - Generally.

If, after holding a hearing on the application the Board shall find that the applicant meets all requirements of the Ordinances of the City, the Board shall approve the issuance of a license to the applicant, permitting him to conduct such business for a period of one year from the date of issuance of the license, unless the license is revoked or canceled for cause before the expiration of such time.

SECTION SIX. 14.08.110 Protests Against Licenses Or Applications--When And How Initiated.

(A) A protest against issuance, renewal or continuation of a bed and breakfast establishment license issued pursuant to this ordinance shall be initiated by submission to the Board of Public Service of a written letter of protest signed by either ten (10) or more persons residing or conducting business, or ten (10) or more persons owning property, within the petition circle of the establishment which is the subject of the protest. If there are less than twenty (20) property owners within the petition circle of a licensed premises or proposed licensed premises, a protest may be initiated against the license for such premises by a protest letter signed by a majority of property owners within the petition circle. If there are less than twenty (20) persons residing or conducting business within the petition circle of a licensed premises or proposed licensed premises, a protest may be initiated against the license for such premises by a protest letter signed by a majority of the persons residing or conducting business within the petition circle. Such letter shall contain the name and address of the licensed premises or proposed licensed premises which is the subject of the protest, the type of license being protested, and the name of the person who shall serve as the protest representative. Upon verifying that there are sufficient signatures on the protest letter to initiate a protest, the Secretary of the Board of Public Service shall issue protest petitions to the protest representative. He shall also notify the licensee or applicant whose license or application is the subject of the protest, the Alderman for the ward in which the licensed premises is or would be located and the police department that a protest has been initiated against the license or application. Such notice shall contain an explanation of the protest procedures as established by this ordinance and title, and by the rules and regulations of the Board of Public Service. If the protest is against renewal or continuation of a license notice shall be served at the licensed premises upon either the licensee or any employee, agent or servant of the licensee found upon the licensed premises. If the protest is against an application for a license, service of the notice shall be made by sending the notice by registered United States mail, return receipt requested, to the address given by the applicant on the license application submitted to the Board of Public Service.

(B) A protest shall not be initiated against renewal more than 45 days, nor less than 14 days, prior to the date on which the existing license for the premises which is the subject of the protest is scheduled to expire. A protest may be initiated against continuation of a license at any time during the term of the license, however, any protest letter submitted to the Board of Public Service less than 45 days prior to the date on which the existing license for the premises which is the subject of the protest is scheduled to expire shall be treated as a protest against renewal of the license. A protest may be initiated against an application for issuance of a license at any time up to the time set for the hearing on such application. The application hearing shall not be postponed because of the filing of a protest against such application; however, the Board of Public Service shall make no decision concerning whether to issue the license applied for until after the conclusion of the protest hearing provided for by the provisions of this ordinance. No protest may be initiated against the continuation of a license for a period of six months after the Board has denied, after a hearing, a previous protest against such license.

SECTION SEVEN. Protest Petitions Contents Time For Collection Of Signatures.

(A) The Board of Public Service shall promulgate a protest petition form. There shall be a heading on each page of the petition which shall: (1) identify by trade name and address the licensed premises or proposed licensed premises which is the subject of the protest; (2) give the name of the licensee or applicant; (3) state that persons signing the petition are supporting the protest filed against the license or application of the licensee or applicant for the premises named on the petition; and (4) contain such additional information as may be required under the rules and regulations of the Board. No signature appearing on a protest petition shall be considered valid unless the name and address of the person who signed the petition is printed on the face of the petition next to his signature.

(B) The Board of Public Service shall not, except for good cause shown, accept any protest petition submitted more than thirty days from the date on which the protest petitions were issued to the protest representatives; except that where the thirtieth day after the date on which the protest petitions were issued falls on a Saturday, Sunday or holiday, the Board shall accept protest petitions filed on the next working day thereafter.

SECTION EIGHT. Hearing On Protest Notice Procedure.

(A) After the last date on which protest petitions may be submitted, the Board shall fix a date for a hearing on the protest. Such hearing shall be held not less than twenty, nor more than thirty, days following the last date on which protest petitions may be submitted. The Board shall have power to continue the hearing for good cause. The Board shall not schedule a hearing for a protest against continuation of a license, and shall summarily dismiss such protest, where no protest petitions are submitted to him prior to the closure date for submission of protest petitions.

(B) The Board shall, at least ten days prior to the date on which the protest hearing is scheduled, cause notice of the time, place and date of the hearing to be served on the licensee or applicant whose license or application is the subject of the protest. If the protest is against renewal or continuation of a license, notice of the protest hearing shall be served at the licensed premises upon either the licensee or any employee, agent or servant of the licensee found upon the licensed premises. If the protest is against an application for a license, service of the notice shall be made by sending the notice by registered United States mail, return receipt requested, to the address given by the applicant on the license application submitted to the Board of Public Service. The Board shall also, at least ten days prior to the date on which a protest hearing is scheduled, cause notice of the time, place and date of such hearing to be served upon the protest representative, the Alderman of the ward in which the licensed premises is or would be located, and the police department. Service of the notice upon the protest representative shall be made by sending the notice by registered United States mail, return receipt requested, to the address given by the protest representative on the written letter of protest. In addition, the Board shall cause a placard containing the words "HEARING ON PROTEST AGAINST BED AND BREAKFAST ESTABLISHMENT LICENSE IN THIS BLOCK", printed in bold black letters at least 1 1/2 inches in height, to be placed at each end of the block on the side of the street where the licensed premises or the proposed licensed premises which are the subject of the protest hearing is or would be located, unless such placement is not possible. If it is not possible to place said placards in the manner specified in the previous sentence, the person posting the placards shall place the placards in such manner as to give the greatest notice to passersby of the protest hearing. Said placards shall specify in clear and legible lettering the time, place and date of the hearing, the trade name and address of the licensed premises or premises proposed to be licensed, the name of the licensee or applicant whose license or application is the subject of the protest, and the type of license which is the subject of the protest. Neither the protest representative nor anyone else signing a protest letter or petition shall be liable for the costs of said placarding.

(C) At the protest hearing, both the protest representative and the licensee or applicant whose license or application is the subject of the protest shall be entitled to produce testimony under oath and to be represented by counsel, and the Board shall have the power, on his own motion, to subpoena witnesses and to take testimony under oath pertaining to all matters connected with the protest. The Alderman for the Ward in which the premises which is the subject of the protest is located, together with the police department, shall have the right to be heard at the hearing.

(D) The protest hearing shall be a bifurcated proceeding. During the first phase of the hearing, the Board shall consider evidence concerning whether the protest petitions submitted to him contain the signatures of a valid majority of either: (1) persons residing or conducting business within the petition circle of the licensed premises or proposed licensed premises which is the subject of the protest; or (2) persons owning property within said petition circle. The Board shall also consider during the first phase of the hearing any testimony offered concerning the sufficiency of the written protest letter which initiated the protest, including, but not limited to, evidence concerning whether the letter contained sufficient signatures to initiate the protest. After conclusion of the first phase of the hearing the Board shall make a decision as to whether the protest petitions submitted to him contain a valid majority of either persons residing or conducting business, or persons owning property, within the petition circle. He need not, prior to initiation of the second phase of the hearing, make any determination as to the sufficiency of the written protest letter. During the second phase of the hearing, the shall consider evidence concerning whether issuance, renewal or continuation of the license which is the subject of the protest would be detrimental to the neighborhood in which the licensed premises is or would be located.

SECTION NINE. Protests Necessity Of Majority Of Signatures On Petition Protesting Continuation Of License Effect Of Majority Of Signatures On Petition Protesting A License Application.

(A) A protest against continuation of a license may only be sustained by the Board if the protest petitions submitted to it to protest such continuation contain the signatures of either a majority of the persons residing or conducting business within the petition circle of the licensed premises which is the subject of the protest or a majority of the persons owning property within such petition circle. If, after the first phase of the hearing is completed, the Board determines that the protest petitions submitted to it in protest of the continuation of a license contain the signatures of neither a majority of the persons residing or conducting business within the petition circle of the licensed premises which is

the subject of the protest nor a majority of the persons owning property within such petition circle then it shall deny the protest and shall not consider evidence of whether continuation of the license would be detrimental to the neighborhood in which the licensed premises is located.

(B) If the Board determines, after the first phase of the hearing is completed, that protest petitions submitted to it to protest an application for a license contain the signatures of either a majority of the persons residing or conducting business within the petition circle of the proposed licensed premises which is the subject of the protest or a majority of the persons owning property within such petition circle, then the Board shall sustain the protest and refuse to grant the license applied for, regardless of any evidence concerning detriment to the neighborhood.

SECTION TEN. Protests Allocation Of Burden Of Proof Grounds For Sustaining Protests Effect Of Sustaining Protest.

(A) If the Board determines after the first phase of the protest hearing that the protest petitions submitted to it contain the signatures of either: (1) a majority of the persons residing or conducting business within the petition circle of the licensed premises which is the subject of the protest; or (2) a majority of the persons owning property within such petition circle, it shall sustain the protest unless the licensee shows by a preponderance of the evidence submitted at the hearing that renewal or continuation of the license would not be detrimental to the neighborhood in which the licensed premises is located. If the Board determines after the first phase of the protest hearing that the protest petitions submitted to it do not contain the signatures of either a majority of the persons residing or conducting business within the petition circle of the licensed premises which is the subject of the protest or a majority of the persons owning property within such petition circle, the Board shall deny the protest, unless the protestors show by a preponderance of the relevant evidence submitted at the hearing that issuance or renewal of the license would be detrimental to the neighborhood in which the licensed premises is or would be located.

(B) If the Board sustains a protest against issuance of a license it shall refuse to grant such license to the person applying therefor. If it sustains a protest against renewal of a license such license shall not be revoked, but the Board shall refuse to renew such license after it expires. If the Board sustains a protest against continuation of a license it shall cancel such license effective one month after any decision is filed upholding such protest. If the license expires by operation of law before it can be canceled it shall not be renewed.

SECTION ELEVEN. Extension Of Protested License.

Where a protest has been filed against continuation or renewal of a license and the license expires prior to a decision by the Board on the protest, the Board shall grant an extension of the license. If the Board sustains a protest, the extension shall expire on the date on which the decision on the protest is issued.

SECTION TWELVE. Withdrawal Of Signatures From Consent Or Protest Petitions.

Any person who has signed both a neighborhood approval petition circulated by or on behalf of a licensee or applicant and a protest petition for the same premises may withdraw his signature from either petition by submitting a letter to the Board requesting withdrawal prior to the date set for the hearing on the protest or by requesting withdrawal in person at the hearing. If a person signs both a neighborhood approval petition and a protest petition and does not request that his signature be withdrawn from one or the other then his signature shall not be counted for or against the application. The Board may also allow a person to withdraw his signature from either a protest or neighborhood approval petition if it finds, based upon a preponderance of evidence, that the circulator of a petition threatened or coerced such person or that the circulator made a material misrepresentation of fact concerning the licensed premises or proposed licensed premises to such person.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
02/14/92	02/14/92	HUDZ	03/11/92	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
03/13/92		03/27/92	03/27/92	03/31/92
ORDINANCE	VETOED		VETO OVR	
62566				