

St. Louis City Ordinance 62589

FLOOR SUBSTITUTE

BOARD BILL NO. [91] 354

INTRODUCED BY ALDERMAN DANIEL GRUEN , DANIEL MCGUIRE ,
MARIT CLARK

An ordinance amending the Zoning Code of the City of St. Louis by enacting a new Section allowing Bed and Breakfast Districts, subject to certain conditions, providing an exception to the plat and petition requirement established in the general Bed and Breakfast Ordinance; and containing an emergency clause.

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

SECTION ONE. Establishment Procedure. A bed and breakfast district may be established and designated by ordinance in any area which contains one (1) or more contiguous city blocks, or portions of city blocks in the following manner.

(A) No bed and breakfast district bill shall be introduced in or validly enacted by the Board of Aldermen unless such bill is introduced by the Alderman of the ward within which the area of the proposed district is located or, if such area is within more than one (1) ward, by the Alderman of each such ward.

(B) Any such bill shall include a description of the boundaries of the proposed district; the city block numbers of those city blocks or portions of city blocks within the proposed district; and an exhibit depicting a general location map of the proposed district; provided, however, that any such proposed district must contain at least one complete city block.

(C) For the purposes of this section, the words "contiguous city blocks, or portions of city blocks" means those city blocks numbered by the city which are immediately across a right-of-way from another city block or immediately adjacent diagonally across an intersection of rights-of-way from another city block.

(D) After any such bill is introduced in the Board of Aldermen and assigned to the Board's appropriate standing committee, said bill shall not be voted upon by the Board of Aldermen until a public hearing on said bill has been held by said committee. The area to be included in such a proposed bed and breakfast district shall be posted with notice of the public hearing in at least two places on each block within the proposed district no less than seven (7) days prior to the public hearing.

SECTION TWO. Declaration - Filing of Copies.

Upon passage of a bed and breakfast district bill by the Board of Aldermen and approval by the Mayor, the area described within the boundaries contained within the bill shall be declared and established a bed and breakfast district, and the Clerk of the Board of Aldermen shall forthwith file a copy of same with the Board of Public Service and with the Zoning Administrator, who shall maintain a plat of the bed and breakfast district.

SECTION THREE. Effect of District Designation.

(A) No person shall own, operate or maintain a bed and breakfast homestay, a bed and breakfast guesthouse, or a bed and breakfast inn within any bed and breakfast district, as set forth in this ordinance, without first obtaining a permit from the Board of Public Service and a graduated business license from the License Collector; provided, however, that notwithstanding the provision of any other ordinance, no such person shall be required to file a plat and neighborhood consent petition as a condition for a bed and breakfast establishment permit or license.

(B) Notwithstanding the provision of any use regulations for any zoning district, any building or premises within a bed and breakfast district may be used for the purposes of a bed and breakfast establishment as a use by right; provided said building or premises meets and maintains the requirements established in Section Three of Ordinance _____ (B.B.355); and provided further that no person shall own, operate, manage or maintain a bed and breakfast establishment that violates the rules, regulations and requirements of said Section Three of Ordinance _____ (B.B.355)

(C) The Board of Public Service shall in writing immediately notify the Aldermen of the ward in which any proposed bed and breakfast establishment would be located of the filing of any occupancy permit or license application, and a separate written notice of the time, place and date of the meeting at which the Board of Public Service will consider such application.

SECTION FOUR. License Approval - Generally.

If the Board of Public Service finds that the applicant in a Bed and Breakfast District meets all the 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 FIVE. 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 a petition circle of the establishment which is the subject of the protest. Said petition circle shall be determined by drawing a circle with a radius of three hundred fifty feet (350') plus one-half the width of the front of the premises from the center of the premises projected to the streets. 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. 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. 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 SIX. 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 SEVEN. 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 EIGHT. 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 NINE. 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 TEN. 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 ELEVEN. Withdrawal Of Signatures From Protest Petitions.

Any person who has signed a protest petition against the issuance, continuation, or renewal of a license may withdraw his signature from such petition by submitting a letter to the Board requesting withdrawal in person at the hearing. The Board may also allow a person to withdraw his signature from a protest 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.

SECTION TWELVE. Emergency Clause. This ordinance, being deemed necessary for the immediate preservation of the public peace and safety, is hereby declared to be an emergency measure and shall become effective immediately upon its passage and approval by the Mayor.

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
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