



## Legislation Text

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**File #:** Ord 22-49, **Version:** 2

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Amending Chapter 411 of the Legislative Code to eliminate petition requirements, reference and incorporate uniform license procedures as outlined in Section 310 of the Legislative Code and update gender specific language and other outdated terms.

WHEREAS, current individual City Licensing Ordinances contain notification, hearing, and petition requirements for specific business license types; and

WHEREAS, different license processes in different City Licensing Ordinances has created confusion among city staff and prospective license applicants as to the proper process to follow; and

WHEREAS, some of these requirements also unnecessarily increase the time it takes individuals to open a business; and

WHEREAS, the city seeks to improve the process by which community members learn about and provide input to support Council decision making related to business licenses; and

WHEREAS, time costs entrepreneur's money and impacts their interest and ability to open a business in Saint Paul; and

WHEREAS, throughout the life cycle of a license, the City Council has the same rights, requirements, and abilities to take Adverse License Action (e.g., imposing conditions on a license); and

WHEREAS, after community listening sessions a stakeholder workgroup discussed business and administrative needs and brainstormed/researched solutions; and

WHEREAS, the workgroup recommended uniform license procedures, the removal of petition requirements, a shortened notification process, elimination of the license renewal public hearing provision and retaining the requirement that all Class N License Applications be put before City Council; and

WHEREAS, the City Attorney has determined, based on the opinion of other legal experts, that laws that exclude references to gender do not promote gender equality, and advises that gender-specific words should be replaced with gender-neutral words that have the same meaning when possible; and

WHEREAS, because the city attorney has determined, based on the opinion of other legal experts, that the use of the word “shall” in legal instruments is ambiguous depending upon context, and advises that the best practice of substituting the word “shall” with a more precise term, such as *must, will, may, should, or is* should be followed when possible, and

WHEREAS, implementation of these procedures requires amendments to individual licenses;

Now, therefore be it

RESOLVED, that the Council of the City of Saint Paul does ordain:

## SECTION 2

Saint Paul Legislative Code Section 411.01 is hereby amended as follows:

### **Sec. 411.01. - Class N - Entertainment License required.**

- (a) *Entertainment license.* No person licensed under Chapter 409 or Chapter 410 ~~shall~~ may provide or furnish or permit another who is leasing, renting or using with or without consideration the licensed premises to provide or furnish entertainment on the licensed premises without first having obtained a license to do so as hereinafter provided. The provision or furnishing of entertainment without such a license, whether by the licensee or by persons using, renting or leasing the licensed premises, ~~shall~~ is grounds for adverse action against all the licenses held at and for the licensed premises. It ~~shall~~ is not a defense in an adverse action against the licenses held at and for the licensed premises that the licensee was not aware or did not know of the provision of such ~~entertainment~~ entertainment by persons renting, leasing or using the licensed premises. The license for each class of license provided for in this chapter is a separate license, and all the requirements of this chapter for obtaining a license must be met even though the licensee holds or has held a different class license hereunder.
- (b) *Limited entertainment license.* A person licensed under Chapter 409 or Chapter 410 may obtain a limited Class A or B license without complying with the consent requirements under section 411.04(b) of this chapter, as further provided in section 411.04(b)(5), (b)(6) and (b)(7) below, and such license shall be is limited to permitting another who is leasing, renting or using the licensed premises, with or without consideration, to provide or furnish entertainment on the licensed premises for a wedding, anniversary or retirement dinner or reception, or similar family or social function.
- (c) *Extended hours.* The holder of an extended service license under sections 409.07.1 ~~or 410.04(c)~~ of the Legislative Code is subject to the regulations defined therein and may provide entertainment during the hours of extended service, but only in conformity with and as authorized by an existing entertainment license issued under this chapter.

Notwithstanding any other provision of law, the council may, at any time and with respect to any establishment, condition or prohibit the provision of entertainment during the hours of extended service (i) in order to protect the public peace, welfare and safety, so long as such conditions or prohibitions do not relate to the content of the entertainment, and (ii) without notice and hearing, or compliance with any of the procedures provided in Chapter 310 of the Legislative Code.

### SECTION 3

Saint Paul Legislative Code Section 411.02 is hereby amended as follows:

#### **Sec. 411.02. - License classification.**

Any person desiring to provide entertainment on the licensed premises must obtain an entertainment license of the applicable type as hereinafter provided:

Class A-Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment.

Class B-All activities allowed in Class A, plus dancing by patrons to live, taped or electronically produced music, and which may also permit volleyball and broomball, or other approved activities participated in by patrons or guests of the licensed establishment plus stage shows, theater, and contests. In all of the activities in Classes A and B, all of the participants, including patrons, shall be fully clothed at all times.

Class C-All activities allowed in Classes A and B, plus performance by ~~male or female~~ performers without limitation as to number, where clothing is minimal but in compliance with Chapters 409.09 and 410.05 of the Legislative Code.

### SECTION 4

Saint Paul Legislative Code Section 411.03 is hereby amended as follows:

#### **Sec. 411.03. - Fee.**

The annual license fees for Class A, B and C entertainment licenses are contained in ~~shall be established by ordinance as specified in section 310.09(b)~~ section 310.01 of this legislative code.

### SECTION 5

Saint Paul Legislative Code Section 411.04 is hereby amended as follows:

#### **Sec. 411.04. - Licensing requirements.**

(a) For Class N Licenses issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (2) of the Saint Paul Legislative Code pertaining to Applications, New Applications Investigation and Review, Notice, Levels of Approval, Objections and Renewal Procedures for Class N Licenses apply.

For any Class T or Temporary License issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (3) of the Saint Paul Legislative Code pertaining to Applications, New Applications Investigation and Review, Notice, Levels of Approval, Objections and Renewal Procedures for Class T

Licenses apply.

*Application.* Any person desiring a license to provide entertainment shall make his application in writing upon a form to be provided by the inspector with whom the application shall be filed. The inspector shall require that the following information be set forth upon the application:

- (1) The name and place of residence of the applicant.
- (2) The exact location of the premises upon which the applicant proposes to provide entertainment.
- (3) Whether the applicant has ever been engaged in a similar business and, if so, the location thereof and the date when so engaged.
- (4) A description of the type or types of entertainment to be provided and the frequency thereof.

In case the applicant proposes to afford the public the privilege of dancing, the applicant shall set forth the amount of floor space available and which the applicant proposes to maintain for dancing purposes.

The application shall be signed by the applicant in person and, if the applicant is a corporation, by an officer of the corporation who shall agree to comply with all the ordinances of the city relating to the business of providing entertainment. He shall file with his application the license fee, together with the consent of property owners or tenants as hereinafter provided.

(b) *Notification requirements; consent of neighboring property:*

- (1) *Notice of hearing:* At least thirty (30) days before a public hearing on an application for a license, the department of safety and inspections shall notify by mail all owners and occupants who own property or reside within three hundred fifty (350) feet of the main entrance of the establishment to be licensed and all community organizations that have previously registered with such department of the time, place and purpose of such hearing, such three hundred fifty (350) feet calculated and computed as the distance measured in a straight line from the nearest point of the building where intoxicating liquor is sold, consumed or kept for sale to the nearest point of the property line owned, leased or under the control of the resident. Prior to the hearing date, the department of safety and inspections shall submit to the city council a list of the names and addresses of each person or organization to whom notice was sent, and certification of such list by the clerk shall be conclusive evidence of such notice.

- (2) *Consent of owners and occupants within three hundred [fifty] feet:* The applicant shall present with his or her application for a Class B or Class C license a statement in writing with the signatures of as many of the owners and occupants of private residences, dwellings and apartment houses located within three hundred fifty (350) feet of such premises as he or she can obtain to the effect that they have no objection to the granting of the class of entertainment license sought or the operation of the business of conducting entertainment of the class of license sought at the location proposed.

If the applicant obtains the signatures of ninety (90) percent or more of such persons, the council may grant the license. If the applicant obtains the signatures of sixty (60) percent to ninety (90) percent of such persons, the council may grant the license upon finding that issuance of the license would not interfere with the reasonable use and enjoyment of neighboring property and residences and would not bear adversely on the health, safety, morals and general welfare of the community. Such findings shall be based on the following considerations if the license were to be granted:

- a. The effect on the surrounding community and institutions;

- b. Noise and likelihood of adverse effect on residential occupants;
- c. The possibility of increased traffic;
- d. The character of the neighborhood;
- e. Other like uses in the neighborhood.

If the applicant fails to obtain the signatures of sixty (60) percent of such persons, the license shall not in any case be granted, unless, in the case of Class B licenses only, the license applicant can illustrate to the city council that a good faith effort was made to fulfill all petition requirements, and that the results of such attempts showed a generally favorable disposition from the surrounding community toward the proposed licensed activity, and that the district council representing the area supports the request for the license by the applicant.

- (3) *Compliance with notice and consent requirements:* An entertainment license for whatever particular class of license has been sought only becomes effective upon compliance with this paragraph (b) and consent of the council by resolution. The failure to give mailed notice to owners or occupants residing within three hundred fifty (350) feet or defects in the notice shall not invalidate the license, provided a bona fide attempt to comply with this paragraph (b) has been made. A bona fide attempt is evidenced by a notice addressed to "owner" and to "occupant" of the listed address. Only one (1) notice need be mailed to each house or each rental unit within a multiple-family dwelling regardless of the number of occupants.

- (4) *Application of subdivision; exceptions:* The requirements set out in this paragraph (b) shall apply only where the application is for an entertainment license in which it is proposed that liquor will be sold and instrumental music with dancing for the guests therein, or singing or vaudeville entertainment is to be provided. The notification and consent requirements of this paragraph (b) shall not be applicable when the premises whereon the entertainment is proposed is zoned as I-1, I-2 or I-3 Industrial District or where the license is to be held in a place located in the downtown business district. For purposes of this paragraph (b), downtown business district shall include all that portion of the City of Saint Paul lying within and bounded by the following streets: Beginning at the intersection of Shepard Road with Chestnut Street, Chestnut Street to Pleasant Avenue, Pleasant Avenue to Kellogg Street, Kellogg Street to Summit Avenue, Summit Avenue to Tenth Street, Tenth Street to Interstate Freeway 94, Interstate Freeway 94 to Lafayette Bridge, Lafayette Bridge to where the bridge crosses over Warner Road, Warner Road to Shepard Road, Shepard Road to Chestnut Street.

- (5)(1) *Exemption from consent requirements for limited entertainment licenses.* The consent requirements of this paragraph (b) shall not apply if the person, firm or corporation holding liquor licenses for the premises for which the entertainment is sought (i) has, as a regular and usual part of its business for at least three (3) years immediately prior to the effective date of this ordinance (C.F. No. 92-1799), rented all or part of the licensed premises for wedding, anniversary or retirement dinners or receptions or similar family or social functions and has held itself out to the public during that period of time as being available for such purposes; (ii) applies for a limited Class A or B license valid for the sole purpose of allowing entertainment to be provided by another on that part of the licensed premises which is rented or used, with or without consideration, for a wedding, anniversary or retirement dinner or reception, or similar family or social function; and (iii) makes application for such limited license within one (1) year of the effective date of this ordinance (C.F. No. 92-1799), or before December 31, 1993, whichever date comes later. Notwithstanding the foregoing, this exemption from the aforesaid consent requirements shall not apply in any case to a Class C license.

- (6)(2) *Conditions of limited licenses.* The limitation on an a Limited entertainment license issued pursuant to paragraph (5) (1) above shall be is an express term and condition of the license, and failure to comply with such limitation shall be is grounds for adverse action against all licenses held

by the licensee or applicant. If the holder of such limited license ~~shall provide, furnish or contract provides, furnishes or contracts~~ for any entertainment of any kind on the licensed premises, such action ~~shall be~~ is grounds for adverse action against all licenses held by such licensee. The council may by resolution further condition such limited licenses and the imposition of such conditions ~~shall must~~ not be deemed to be an adverse action; provided, however, that the imposition of any condition which directly limits, or whose only purpose is to limit, free expression or the expressive content of the entertainment shall must be deemed to be an adverse action and governed by the procedural requirements of sections ~~310.05 and 310.06~~ 310.03 and 310.04 of the Legislative Code. Violation of such conditions ~~shall be~~ is grounds for the revocation, suspension or further limitation of the ~~limited a~~ Limited entertainment license and any other licenses held by the licensee. Such revocation, suspension or further limitation ~~shall must~~ not be deemed to be an adverse action; provided, however, that if the violation which is all or part of the grounds of such action involves free expression or the expressive content of the entertainment, such action ~~shall must~~ be deemed to be an adverse action and subject to the procedural requirements of sections ~~310.05 and 310.06~~ 310.03 and 310.04 of the Legislative Code.

- (7)(3) *Responsibility of licensee under limited licenses.* Each holder of a limited license hereunder shall be responsible for full compliance by all renters and users of the licensed and contiguous premises with all requirements of law. The provisions of section 409.08(7) of the Legislative Code ~~shall be~~ are applicable to and govern holders of limited licenses hereunder.

(e) (b) *Investigation.*

For Class N Licenses issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (2) of the Saint Paul Legislative Code pertaining Investigation apply.

For any Class T or Temporary License issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (3) of the Saint Paul Legislative Code pertaining to Investigation apply.

Whenever an application for an entertainment license is filed, the ~~Director must inspector shall refer said application immediately to the director of the department of safety and inspections and the director of the department of police who shall proceed to inspect and examine the premises described in the application and report to the inspector whether the applicant is a proper person to receive such a license and~~ and determine whether the premises are suitable for entertainment.

~~Upon receipt of the reports, the inspector shall transmit the reports together with his recommendation and any recommendation that the above officials shall make with respect to the applicant or the premises to the council for its consideration. It is hereby made the duty of the inspector, in any case where consent of nearby residents is required under this chapter, to inquire whether such consent was given in good faith.~~

- (d) (c) *Floor space.* No live entertainment license shall may be issued given where the floor space available for and which is to be maintained for dancing in which the public participates does not exceed four hundred (400) square feet.

- (e) (d) Interim standards for off-street parking. In any case in which the applicant is seeking a Class B or Class C license, the applicant shall provide additional off-street parking for the licensed premises as follows: Fifty (50) percent of the shortfall in parking spaces between one (1) space for each seventy-five (75) square feet of gross floor area, and the number of parking spaces already provided by the licensee. "Gross floor area" shall mean the sum of the horizontal areas of each floor of a building as specified in section 60.206 of the Zoning Code. This requirement shall not apply to licensed premises which are located in the downtown business district as defined in section 409.11 of the Legislative Code. The license application must include a fully dimensioned floor plan and site plan drawn to scale. Modifications may be granted as specified in section 409.08(11) e.

- (f) (e) *Limitations based on type of liquor license.* Only establishments holding on sale intoxicating liquor

licenses are eligible for class B and class C entertainment licenses. A holder of a wine and/or intoxicating malt liquor licenses may only obtain a class A entertainment license. Any licensee with a wine and/or intoxicating malt liquor license that holds an entertainment B or C license on the date this paragraph is effective may continue to hold that license unless or until the license is revoked or expires.

## SECTION 6

Saint Paul Legislative Code Section 411.05 is hereby amended as follows:

**Sec. 411.05. - Temporary Class A or Class B Entertainment License.** ~~One-day license.~~

Any person may apply for a ~~temporary~~ Temporary Class A or Class B entertainment license.

Temporary Class A or Class B entertainment licenses are valid for a twenty-four (24) hour period.

Temporary Class A or Class B entertainment licenses issued under this Chapter follow the Uniform License Procedures laid out in Chapter 310.02 (3) of the Saint Paul Legislative Code pertaining to Applications, New Applications Investigation and Review, Notice, Levels of Approval, Objections and Renewal Procedures.

Temporary Class A or Class B entertainment licenses are ~~such application shall~~ must ~~be made in the manner prescribed in this chapter and shall be subject to the same requirements regarding inspection and floor space as provided elsewhere in this chapter. The fee for such license shall be as is set forth in Saint Paul Legislative Code section 310.18~~ 310.01. No location shall may be granted more than three (3) such licenses per calendar year, except within the downtown entertainment district where no more than ten (10) such licenses shall be granted to a location per calendar year. Such license applications must comply with requirements laid out in section ~~409.11(b)~~ 409.10(b).

## SECTION 7

This Ordinance shall take effect and be in force thirty (30) days following passage, approval and publication.