

..Title

Amending Chapter 411 of the Saint Paul Legislative Code to eliminate petition requirements, reference and incorporate Uniform License Procedures as outlined in Saint Paul Legislative Code section 310 and update gender specific language and other outdated terms.

SECTION 1

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 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, is grounds for adverse action against all the licenses held at and for the licensed premises. It 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 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 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 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 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.

- (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.
 - (2) *Conditions of limited licenses.* The limitation on a Limited entertainment license issued pursuant to paragraph (1) is an express term and condition of the license, and failure to comply with such limitation is grounds for adverse action against all licenses held by the licensee or applicant. If the holder of such limited license provides, furnishes or contracts for any entertainment of any kind on the licensed premises, such action 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 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 must be deemed to be an adverse action and governed by the procedural requirements of sections 310.03 and 310.04 of the Legislative Code. Violation of such conditions is grounds for the revocation, suspension or further limitation of the Limited entertainment license and any other licenses held by the licensee. Such revocation, suspension or further limitation 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 must be deemed to be an adverse action and subject to the procedural requirements of sections 310.03 and 310.04 of the Legislative Code.
 - (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 are applicable to and govern holders of limited licenses hereunder.
- (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 inspect and examine the premises described in the application and determine whether the premises are suitable for entertainment.

- (c) *Floor space.* No live entertainment license may be issued 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.
- (d) *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.

Any person may apply for a 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 subject to the same requirements regarding inspection and floor space as provided elsewhere in this chapter. The fee for such license is set forth in Saint Paul Legislative Code section 310.01. No location 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 409.10(b).

SECTION 7

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