

EMERGENCY EXECUTIVE ORDER 2020-33

I, Melvin Carter III, Mayor of the City of Saint Paul, on November 13, 2020, pursuant to Saint Paul Legislative Code Section 13.06, do hereby issue the following Executive Order:

WHEREAS, on March 13, 2020, Minnesota Governor Tim Walz issued Executive Order 20-10 “Declaring a Peacetime Emergency and Coordinating Minnesota’s Strategy to Protect Minnesotans from COVID-19” pursuant to Minn. Stat. § 12.31, subd. 2. This Order has been extended several times and remains in effect; and

WHEREAS, on March 15, 2020, I issued an Emergency Declaration in response to the COVID-19 pandemic pursuant to Minn. Stat. § 12.29, which the City Council consented to on March 17, 2020, and which I have twice extended, and such extensions were approved by the City Council on June 10, 2020, and September 9, 2020; and

WHEREAS, Saint Paul Leg. Code Chapter 13.06(b) provides that, “whenever necessary to meet an emergency ... the mayor may by executive order promulgate regulations ... for which adequate regulations have not been adopted ... regarding the conduct of persons and the use of property during emergencies, and respecting all other matters which are required to protect public safety, health and welfare in emergencies”; and

WHEREAS, on March 16, 2020, Minnesota Governor Tim Walz issued Executive Order 20-04 which ordered the temporary closure of Minnesota restaurants and bars to dine-in customers and also ordered the temporary closure of places of public accommodation and amusement, including but not limited to: theatres, museums, fitness centers, and community clubs; and Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs, and other places of public accommodation that offer alcoholic beverages for on-premises consumption until April 10, 2020; and

WHEREAS, on March 25, Governor Walz signed Executive Order 20-20 directing Minnesotans to stay at home and allowed only essential workers to go to work. On April 8, 2020 and April 30, 2020, Governor Walz issued Executive Orders 20-33 and 20-48, respectively, extending and modifying the previous Stay at Home order. On May 17, 2020, Executive Order 20-48 expired; and

WHEREAS, on May 13, 2020, Minnesota Governor Tim Walz issued Executive Order 20-56 which directed the Commissioners of Health, Employment and Economic Development, and Labor and Industry to develop a phased plan to achieve the limited and safe reopening of bars, restaurants, and other places of public accommodation beginning June 1, 2020; and

WHEREAS, on May 20, 2020, the Minnesota Department of Employment and Economic Development released industry guidance which will allow bars and restaurants to safely reopen on June 1, 2020; and

WHEREAS, on May 27, 2020, Governor Walz issued Executive Order 20-63 that included regulations for outdoor service provided by restaurants, food courts, cafes, coffeehouses, bars, taverns, brewer taprooms, micro distiller cocktail rooms, farm wineries, craft wineries, cideries, golf courses, and other Places of Public Accommodation offering food or beverages (including alcoholic beverages) for on premises consumption; and

WHEREAS, on May 27, 2020 I issued Executive Order 2020-10 which eliminated certain City requirements to facilitate commercial uses of outdoor spaces; and

WHEREAS, on August 14, 2020, September 22, 2020 and October 30, 2020, I signed Executive Orders which extended Executive Order 2020-10 subject to certain conditions, and

WHEREAS, Saint Paul businesses remain impacted by the Governor's Executive Orders and reduced business related to COVID-19 and the need to find creative solutions to support Saint Paul businesses throughout the winter remains; and

WHEREAS, during the 2020 Regular Session of the Minnesota Legislature, the Minnesota Legislature enacted 2020 Laws of Minnesota, Chapter 103 – S.F. No 2130, Section 9 (“Special Law”) which allows the City of Saint Paul to create and issue an On-Sale Intoxicating Beverage Food Hall License; and

WHEREAS, the Keg and Case Market worked with the Legislature on this request for a Special Law; and

WHEREAS, the Special Law provided that, subject to requirements, this license type may allow service and consumption anywhere within the defined premises as long as consumption of licensed beverages sold by the license holder is within a food establishment area or common areas within the licensed premises; and

WHEREAS, the Special Law required the City of Saint Paul to comply in a timely manner with Minnesota Statutes Section 645.021, which required approval by resolution of a majority vote of all members of the governing body or unit; and

WHEREAS, the Council of the City of Saint Paul considered, adopted and approved the Special Law by RES 20-133 on October 7, 2020; and

WHEREAS, an amendment to Saint Paul Legislative Code Sections 409.03 and the addition of Saint Paul Legislative Code Section 409.32 is necessary to allow the City of Saint Paul to define, create and Issue On-Sale Intoxicating Beverage Food Hall Licenses; and

WHEREAS, under Saint Paul Legislative Code Provisions contained in Chapter 409 and City Charter Chapter 6, these amendments and additions would require notice, two Council Readings, a Public Hearing and another hearing before adoption; and

WHEREAS, after adoption, the changes allowing issuance of an On-Sale Intoxicating Beverage Food Hall License would not take effect and be in force until thirty (30) days following its passage, approval and publication; and

WHEREAS, this time delay may cause businesses like Keg and Case to close permanently; and

WHEREAS, allowing for the creation and issuance of the On-Sale Intoxicating Beverage Food Hall License will support Keg and Case and other businesses working to find creative solution to help them survive the COVID situation; and

NOW, THEREFORE, I, Melvin Carter, Mayor of the City of Saint Paul, hereby issue the following Executive Order:

1. The Notice, Public Hearing and other requirements laid out in City Charter, Chapter 6 and Saint Paul Legislative Code Section 409, are waived to allow for the immediate creation of On-Sale Intoxicating Beverage Food Hall Licenses; and
2. Saint Paul Legislative Code Section 409.03(a) (Exhibit A) is amended to include Food Halls in the list of establishments that the City of Saint Paul can issue on-sale intoxicating liquor licenses to; and
3. Saint Paul Legislative Code Section 409.32 (Exhibit B) is hereby added to define and create an On-Sale Intoxicating Beverage Food Hall License; and
4. The fee for On-Sale Intoxicating Beverage Food Hall License is waived while this Executive Order is in effect; and
5. The Department of Safety and Inspections may issue an On-Sale Intoxicating Beverage Food Hall Licenses upon successful application by an applicant in order to provide immediate assistance to qualifying businesses wishing to utilize this license type; and
6. Pursuant to Chapter 13 of the Saint Paul Legislative Code, this Executive Order is in immediate effect upon my signature and, if not sooner rescinded or later extended, shall expire at the end of forty (40) days after its effective date or at the end of the declared local emergency to which it relates, whichever occurs first.

Dated: November 13, 2020



Mayor Melvin Carter

Exhibit A
Amending Chapter 409.03

Sec. 409.03- Number of licenses.

(a) In the downtown business district, and in all commercial development districts as defined in section 17.07.1 of the City Charter, on-sale licenses shall be issued only to hotels, clubs, restaurants, Food Halls, and establishments for the sale of on-sale liquors exclusively. In all other areas of the city, licenses shall be issued only to hotels, restaurants and private nonprofit colleges, provided however, that establishments holding licenses on August 16, 1995 shall not be affected by this limitation, but shall be entitled to have such licenses renewed so long as they are in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses. Notwithstanding the foregoing, the following exceptions shall apply:

(1) A new license may be issued for a location in such other areas of the city if there had previously been an on-sale intoxicating liquor license issued for that location, unless:

- a. The previous license had been revoked by the council for any reason other than nonpayment of license fees within the previous fifteen (15) years; or
- b. The previous license had terminated or expired more than two (2) years before the new license had been first applied for; or

(2) An existing on-sale intoxicating liquor license may be allowed to move into another location in the city if the previous location of the license was acquired by purchase or condemnation by a public body having the power of eminent domain, and if the distance between the old and new locations is less than one-half ($\frac{1}{2}$) mile.

Exhibit B
Amending Section 409.32

Sec. 409.32. – On-Sale Intoxicating Beverage Food Hall License.

(a) *Definitions.* The following definitions shall apply to this section:

- (1) *On-Sale Intoxicating Beverage Food Hall License* shall mean a license issued to a Food Hall Anchor Tenant or Food Hall Umbrella Operator, with a distinct, compact, and contiguous premises which contains restaurants and closes by midnight. The On-Sale Intoxicating Beverage Food Hall License authorizes the service and consumption of intoxicating beverages anywhere within the premises as defined in the license.
- (2) *Food Hall Anchor Tenant* shall mean the prime tenant for the premises that has exclusive right to on-sale liquor service within all or a portion of the licensed premises, as allowed under this Chapter and Minnesota Statute.
- (3) *Food Hall Umbrella Operator* shall mean a licensee who that has exclusive right to on-sale liquor service within all or a portion of the licensed premises, as allowed under this Chapter and Minnesota Statute.

(b) *Issuance of license; conditions for On-Sale Food Hall License.* On-sale Food Hall Licenses may be issued to the proprietor of any Food Hall Anchor Tenant or Food Hall Umbrella Operator as defined in this section, with section 409.03 limitations and subject to the following conditions:

- (1) The licenses shall be valid on all days of the week consistent with the hours of sale provided in section 409.07(a) and this section; and
- (2) All other provisions of this chapter shall be applicable to such licenses and licensees unless inconsistent herewith.