Green Sheet Green Sheet Green Sheet Green Sheet Green Sheet Green Sheet

08-461

Department/office/council:	Date Initiated:
CO –Council	22-APR-08

Green Sheet NO: 3052795

Contact Person & Phone:
Pat Harris
266-8630

Must Be on Council Agenda by (Date):
07-MAY-08

Doc. Type: ORDINANCE

E-Document Required: N
Document Contact:
Contact Phone:

Assign Number For Routing Order

	Department	Sent To Person	Initial/Date
0	Council		
1	Council	Department Director	
2	Council		
3	Council		
4	Council		
5	City Clerk	City Clerk	

Total # of Signature Pages _____ (Clip All Locations for Signature)

Action Requested:
Approve amendment to Ch 409.06 clarifying signature requirements for Seasonal Outside Service Area.

Recommendations: Approve (A) or Reject (R).

_____ Planning Commission
_____ CIB Committee
_____ Civil Service Commission
_____ _____
_____ _____
_____ _____
_____ _____

Personal Service Contracts Must Answer the Following Questions:

1. Has this person/firm ever worked under a contract for this department?
   Yes No
2. Has this person/firm ever been a city employee?
   Yes No
3. Does this person/firm possess a skill not normally possessed by any current city employee?
   Yes No

Explain all yes answers on separate sheet and attach to green sheet

Initiating Problem, Issues, Opportunity (Who, What, When, Where, Why):

Advantages If Approved:

Disadvantages If Approved:

Disadvantages If Not Approved:

Total Amount of Transaction:

Cost/Revenue Budgeted:

Funding Source:

Activity Number:

Financial Information: (Explain)

(Amended May 28, 2008)

Council File # 08-461
Green Sheet # 3052795

AMENDED
ORDINANCE
CITY OF SAINT PAUL, MINNESOTA

31

Presented By Kathy Lantry

An Ordinance Amending Chapter 409.06 of the Saint Paul Legislative Code To Clarify Signature Requirements For Seasonal Outside Service Areas.

PUBLISHED JUN 13 2008

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1.

Section 409.06 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 409.06 Licensing Requirements

(a) *Application.* Any person desiring a license to sell intoxicating liquor shall make his verified application in writing upon a form approved by the liquor control commissioner for the state and shall file the same with the inspector. Such application form shall require that the following information be set forth upon the application, and such further information as may be required:

***

(g) *Seasonal outside service areas.* The council may, by resolution, permit any licensee to sell or serve intoxicating liquors in areas outside the building structure on public or private property which are immediately adjacent to and contiguous with the structure containing the licensed premises., ~~or on property leased or owned by the licensee which is within forty-five (45) feet of the property line of the licensed premises.~~ Property which is not connected to the licensed premises cannot be used as an outside service area if it is located across a right of way such as a street or alley. Such outside service areas shall be seasonal, and shall not involve an enlargement of the building structure. ~~Such permission~~ The seasonal outside service area license shall not be granted unless all the conditions of subsections (1) through (~~7~~8) and all pertinent provisions of the zoning code are satisfied.

(1) *Public hearing; notices.* No seasonal outside service area license shall be issued without a public hearing on the application. The notification and hearing requirements applicable to license transfers or change in licensed areas in section 409.11 shall be applicable in the issuance of such seasonal outside service area licenses; provided, however, that the license may be issued prior to the expiration of the 45 days and the public hearing may be waived by the city council by motion on the affirmative vote of five (5) members upon the following findings (in addition to the findings that may be required under paragraph 2 below):

(a) That the application is in order and there exist no grounds for denial of the license;

(b) That the citizens' district council whose geographical area encompasses the proposed licensed premises consents to the waiver;

RT
5-30-08

(c) That failure to grant the waiver, with the consequent delay in approving the license, would either cause exceptional and unusual hardship to the license applicant or would cause substantial hardships to the community for which the license is sought; and

08-461

(d) Agreement by the licensee that all licensed operations may be immediately discontinued, waiving all requirements of further notice and hearing, in the event of a directive from the department of safety and inspections as provided hereinbelow.

In any case in which the forty-five-day notice period has been waived, if the department of safety and inspections receives a complaint prior to the date the public hearing was originally scheduled or would have been scheduled, the said department shall immediately investigate the claim and recommend an appropriate course of action to the city council. If the complaint provides a basis for adverse action against the license, the said department shall direct that the licensee immediately discontinue all operations, and shall reschedule the public hearing before the city council or initiate an adverse action.

~~(1) No outside service area shall be permitted unless the licensee presents with his or her application for such outside service area a statement in writing by ninety (90) percent of the owners of all private residences, dwellings and apartment houses located within three hundred (300) feet of the proposed outside service area that they have no objection to such service area. Measurements shall be determined from the property line of the licensed premises to the property line of the residential uses; provided, however, that where the licensed premises is located within a shopping mall or shopping center the measurements shall be determined from the nearest corner of the building in which the licensed premises is located to the property line of the residential uses.~~

(2) *Consent of neighboring property:*

(a) *Consent of 90 % of owners within three hundred feet:* The applicant shall present with his or her application a statement in writing with the signatures of as many of the owners of private residences, dwellings and apartment houses located within three hundred (300) feet of such premises as he or she can obtain to the effect that they have no objection to the granting of the license sought at the location proposed. Measurement shall be determined from property line of the licensed premises to the property line of the residential uses; provide, however, that where the licensed premises is located within a shopping mall or shopping center the measurements shall be determined from the nearest corner of the building in which the licensed premises is located to the property line of the residential uses.

(b) *Consent of 60-89% of owners within three hundred feet:* 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 eighty-nine (89) percent of such persons, the council may grant the license if the licensee demonstrates to the council in writing with respect to specific properties that a good faith effort was made to fulfill all petition requirements, and 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:

PT
5-30-08

1. The effect on the surrounding community and institutions; 08-461

2. Noise and likelihood of adverse effect on residential occupants;

3. The possibility of increased traffic;

4. The character of the neighborhood;

5. Other like uses in the neighborhood.

(c) *Consent of less than 60% of owners within three hundred feet.* 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 the license applicant can illustrate to the city council, in writing with respect to specific properties, 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. 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:

1. The effect on the surrounding community and institutions;

2. Noise and likelihood of adverse effect on residential occupants;

3. The possibility of increased traffic;

4. The character of the neighborhood;

5. Other like uses in the neighborhood.

(~~2~~3) Off-street parking spaces may not be reduced by the establishment of an outside service area below the number of off-street parking spaces which would be required if the licensed premises together with the outside service area were to be newly constructed in conformity with the zoning code; provided, however, that this requirement may be modified by the council by resolution in accordance with the procedures and substantive criteria provided in section 409.08(11)c of this legislative code.

(~~3~~4) No outside service area shall be permitted unless the licensee provides, in addition to other requirements of law, safety barriers or other enclosures to protect patrons from any hazards, including vehicular traffic.

(~~4~~5) No outside service area shall be located on public property or upon any street, alley or sidewalk, nor shall such outside service areas hinder or obstruct vehicular or pedestrian traffic on any street, alley or sidewalk. Notwithstanding the foregoing, the sale and service of alcoholic beverages within a sidewalk cafe by a food establishment which is licensed as a restaurant under Chapter 331A of the Legislative Code and which is in compliance with the provisions of section 106.01 of the Legislative Code, is permitted.

(~~5~~6) The council may deny any application for an outside service area where it has

RT
5-30-08

reason to believe, or may revoke its permission for such an outside service area where it is satisfied, that the impact of such outside service area on adjoining property will be, or has been, any of the following:

08-461

a. Loud, boisterous or disturbing noise levels;

b. Hazardous traffic conditions;

c. Offensive, obnoxious or disturbing odors;

d. Excessive litter;

e. Excessive artificial lighting;

f. Substantial decrease in adjoining property values; or

g. Any other condition inconsistent with the reasonable use and enjoyment of adjoining property and inconsistent with the health, safety, morals and general welfare of the adjoining neighbors or community.

(67) Permission to sell and serve intoxicating liquor in or upon any outside service area may be revoked by the council on three (3) days' notice to the licensee, pursuant to information received at a public hearing before said council. The information need not be received under oath, but must reasonably satisfy the council as to the existence of any or all of the conditions listed in subparagraph (5). The public hearing shall be conducted with such formal or informal procedures as the council may permit, so long as the licensee and any complaining parties have an opportunity to be heard.

(78) The licensee shall, with respect to any outside service area, comply with all applicable provisions of law and regulations in regard to the sale and service of intoxicating liquor, including, without limitation by reason of this specification, all applicable regulations contained in sections 409.08 and 409.09 of this chapter.

Section 2

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

PUBLISHED

JUN 23 2008

	Yeas	Nays	Absent
Bostrom	✓		
Carter	✓		
Harris	✓		
Helgen	✓		
Lantry	✓		
Stark	✓		
Thune			✓
	6	0	1

Adopted by Council: Date 6/04/2008

Adoption Certified by Council Secretary

By: Mary Erickson

Approved by Mayor: Date

By:

Requested by Department of:

By:

Form Approved by City Attorney

By: Rachel Tunney 5-30-08

Form Approved by Mayor for Submission to Council

By:

PUBLISHED

JUN 23 2008