



Legislation Text

File #: Ord 11-55, **Version:** 2

Amending Chapter 409 of the Saint Paul Legislative Code to enable licensure of private non-profit colleges.

Amended 6/22/11

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1

Section 409.02 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 409.02 Definitions.

As used in this chapter, the following items shall have the meanings ascribed to them in this section:

Catering permit shall mean that permit provided for in Minnesota Statutes, Section 340A.404, subdivision 12.

Private nonprofit college shall mean a postsecondary institution of learning, not administered by a unit of government or operated for profit, which awards undergraduate or graduate degrees.

Section 2

Section 409.03 of the Saint Paul Legislative Code is hereby amended to read as follows:

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 and establishments for the sale of on-sale liquors exclusively. In all other areas of the city, licenses shall be issued only to ~~hotels and restaurants~~ 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- a. The previous license had been revoked by the council for any reason other than nonpayment of license fees within the previous fifteen (15) years; or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 (½) mile.

Section 3

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

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 of 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:

- (1) The name and place of residence of the applicant.
- (2) The location of the premises upon which the applicant proposes to sell such liquor and an exact description, including the proposed floor plan and seating capacity, of the particular place within the building structure where such sales are proposed.
- (3) Whether the applicant has ever been engaged in a similar business and, if so, the location thereof and the date when so engaged. The application shall be signed and verified by the applicant in person and, if the applicant is a corporation, by an officer of the corporation.
- (4) Whether applicant has ever used or been known by a name other than his true name; and if so, what was such name or names and information concerning dates and places where used.
- (5) Street addresses at which applicant and present spouse have lived during the preceding ten (10) years.
- (6) Kind, name and location of every business or occupation applicant has been engaged in during the preceding ten (10) years.
- (7) Names and addresses of applicant's employers and partners, if any, for the preceding ten (10) years.
- (8) Whether applicant has ever been convicted of any felony, crime or violation of any ordinance other than traffic. If so, the applicant shall furnish information as to time, place and offense for which convictions were had. The inspector and council shall not make use of any conviction or criminal record not available for lawful use under Minnesota Statutes, Chapter 364.
- (9) Whether applicant has ever been engaged as an employee of or in operating a saloon, hotel, restaurant, cafe, tavern or other business of similar nature. If so, applicant shall furnish information as to the time, place and length of time.
- (10) If the applicant is a partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant. A managing partner or partners shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application; and if the partnership is required to file a certificate as to a trade name under the provisions of Chapter 333, Minnesota Statutes, a copy of such certificate certified by the clerk of district court shall be attached to the application.
- (11) If the applicant is a corporation or other organization and is applying for an on-sale or off-sale license, the following:
 - a. Name, and if incorporated, the state of incorporation.
 - b. A true copy of certificate of incorporation, articles of incorporation, or association agreement and bylaws; and if a foreign corporation, a certificate of authority as described in Chapter 303, Minnesota Statutes.

c. The name of the manager or proprietor or other agent in charge of the premises to be licensed, the assistant manager(s), the food manager(s), and the beverage manager(s), giving all the information about said person(s) as is required of a single applicant in subparagraph (3) of this section.

d. The application shall contain a list of all persons who, singly or together with any other person, own or control an interest in said corporation or association in excess of five (5) percent or who are officers of said corporation or association, together with their addresses and all information as is required of a single applicant, except that applications for off-sale shall list all persons who own or control any interest in said corporation.

(12) Reserved.

(13) A copy of the Minnesota buyer's card or application therefor, and a copy of the federal retail dealer tax stamp or application therefor, received or submitted by the applicant.

(14) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture, stock-in-trade, and any other asset, and proof of the source of such money.

(15) The names and addresses of all persons, other than the applicant, who have any financial interest in the business, buildings, premises, fixtures, furniture and stock-in-trade; the nature of such interest, amount thereof, terms for payment or other reimbursement. This shall include, but not be limited to, any lessees, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged or extended security for any indebtedness of the applicant.

(16) Whether or not all real estate and personal property taxes for the premises to be licensed that are due and payable have been paid, and if not paid, the years and amounts which are unpaid.

The applicant shall file with the inspector, with his application, the amount of the license fee herein fixed for the particular license for which he makes application.

(f) *Premises of license.* No on-sale or off-sale license shall be effective beyond the compact and contiguous space named in such license and for which the same was granted, except that an on-sale license granted for sales in the dining room of any hotel may permit sales of liquor with meals in additional dining rooms open to the public and specified in the license if meals are regularly served to guests therein. If meals are regularly served to guests in guest rooms in any such hotel, liquor may be sold in such guest rooms but only with meals; provided, that such guest rooms must be specified in the license granted. No sales shall be made upon the premises of an on-sale licensee except upon the ground floor; provided, however, that this limitation shall not apply to a hotel duly licensed to sell on another floor as in this section provided; and provided further, that a licensee shall be permitted to sell at a place in a building other than the ground floor if a license has been granted for sales on a floor other than such ground floor. Licenses granted to a private nonprofit college need not be compact and contiguous as long as the space described is on the premises of the private nonprofit college. All licenses granted hereunder shall set forth the exact location within the building structure where such sales may be made and no sale shall be permitted except in that part of the premises defined in the license, except as provided in the following subsection (g).

(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 compact and contiguous with the structure containing 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; however curbside seating may be allowed at a sidewalk café subject to the restrictions of Chapter 106 of the Saint Paul Legislative Code. Such outside service areas shall be seasonal, and shall not involve an enlargement of the building structure. The seasonal outside service area license shall not be granted unless all the conditions of subsections (1) through ~~(8)~~ (9) and all pertinent provisions of the zoning code are satisfied.

(9) *Private nonprofit colleges.* Private nonprofit college may sell or serve intoxicating liquors in areas outside of building structures as long as said areas are clearly described in the application materials submitted under section 409.06(g), subdivisions 1 and 2.

(h) *Zoning restrictions.* No license shall be issued for premises located within an area wherein such use of the premises is prohibited by the zoning code, nor within an area where such sales are forbidden by the state law or any other ordinance of the city. A license issued to a private nonprofit college shall not be issued for premises located within an area where such sales are prohibited by state law.

(n) *License near church or school.* No license, except an on-sale culinary, or on-sale wine or intoxicating malt liquor license issued to a restaurant as defined in section 409.15, off-sale/brew pub, or off-sale brewery license shall be issued for any premises located within three hundred (300) feet from any public or parochial school, church, or synagogue, said three hundred (300) feet being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the liquor license to the property line of any school, church, or synagogue in the area for which the license is sought. This prohibition shall not apply to a license issued to a private nonprofit college.

Section 4

Section 409.07 of the Saint Paul Legislative Code is hereby amended to read as follows:

409.07 Hours of sale; Sunday sales, etc.

(a) *On-sale hours of sale.*

(1) *Intoxicating liquor on-sale.* No sale of intoxicating liquor shall be made after 1:00 a.m. on Sunday nor until 8:00 a.m. on Monday. No on-sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday.

(2) *Sales after 1:00 a.m.* Establishments holding only on-sale wine and/or on-sale malt liquor licenses shall not be eligible to sell wine and/or malt liquor after 1:00 a.m. An establishment holding on-sale licenses other than on-sale wine and/or on-sale malt which has received a permit from the state which authorizes sale of intoxicating liquor or three and two-tenths (3.2) percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. may make such sales if it has provided a copy of the permit to the director of the department of safety and inspections. An establishment holding only on-sale wine and/or on-sale malt liquor licenses which also has a state 2:00 a.m. permit on January 1, 2009 may continue to make such sales until 2:00 a.m. unless or until the on-sale wine and/or on-sale malt liquor license is discontinued for any reason.

(c) *Sunday sales.*

(1) Notwithstanding the provisions of paragraph (b), establishments to which on-sale licenses have been issued or hereafter may be issued for the sale of intoxicating liquors which are hotels or restaurants and which have facilities for serving no fewer than fifty (50) guests at one (1) time may serve intoxicating liquors between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Monday in conjunction with the serving of food, but no liquor shall be served on Sundays other than to persons who are seated at tables; provided, that the licensed establishment is in conformance with the Minnesota Clean Indoor Air Act. Notwithstanding the foregoing, an

establishment with has received a permit from the state which authorizes sale of intoxicating liquor or 3.2 percent malt liquor on- sale between the hours of 1:00 a.m. and 2:00 a.m. may make such sales if it has provided a copy of the permit to the director of the department of safety and inspections.

(2) It is unlawful for any such establishment, directly or indirectly, to sell or serve intoxicating liquors as provided in subparagraph (1) above without having first obtained a special license therefor. Such special license may be issued by the council for a period of one (1) year and for which the fee shall be two hundred dollars (\$200.00). Application for said special license shall be made to the council in the same manner as application for other licenses to sell intoxicating liquor are made.

(3) Private nonprofit colleges which have obtained an on-sale license may serve intoxicating liquors between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Monday to patrons attending events at the private nonprofit college.

Section 5

Section 409.08 of the Saint Paul Legislative Code is hereby amended to read as follows:

409.08 Regulations generally.

All licensees hereunder are hereby required to observe the following regulations; provided, however that any such regulation which specifically refers to an on-sale licensee shall not bind an off-sale licensee, nor shall any regulation which specifically refers to an off-sale licensee bind an on-sale licensee:

(1) All sales shall be made in full view of the public.

(11) When an existing building is converted to on-sale intoxicating liquor purposes, existing off-street parking facilities which serve the building shall be provided with a visual screen where the parking facility adjoins or abuts across an alley any residential use or residential zoning district. The screen shall be between four and one-half (4½) and six and one-half (6½) feet in height and of sufficient density to visually separate the parking facility from the adjacent residential use district. The screen may consist of various fence materials, earth berms, plant materials or a combination thereof. Access by patrons to the parking facility from an adjacent alley should generally be prohibited. This regulation shall not apply to a license issued to a private nonprofit college.

Section 6

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