



Legislation Text

File #: Ord 15-29, **Version:** 2

Amending Chapter 409 of the Saint Paul Legislative Code to incorporate 2015 state law changes related to Sunday growler sales, Sunday 8:00 a.m. on-sale, small brewer and microdistillery temporary licenses, and off-sale microdistilleries.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES HEREBY ORDAIN

Section 1

That **Sec. 409.02. - Definitions** is amended by adding a definition to read:

Off-sale microdistillery shall mean a distiller of spirits licensed under Minn. Stat. § 340A.22. The distiller may not sell more than one 375 milliliter bottle of sprits per day to any one customer at off-sale. Such off-sale must be of spirits manufactured on-site only.

Section 2

That **Sec. 409.07. - Hours of sale; Sunday sales, etc.** is amended to read:

(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.

(b) *Off-sale hours of sale.* No off-sale shall be made before 8:00 a.m. or after 8:00 p.m. of any day except off-sale shall be permitted on Friday and Saturday until 10:00 p.m. No off-sale shall be made on Thanksgiving Day or Christmas Day, December 25. If the sale of liquors is not otherwise prohibited on July 3, the date preceding Thanksgiving Day or on December 31, off-sale may be made until 10:00 p.m.

(c) *Sunday sales.*

- (1) Notwithstanding the provisions of paragraph (a), 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~~ 8:00 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) Notwithstanding the provisions of paragraph (a), establishments to which brewer taproom licenses have been issued or may hereafter be issued, and that have obtained a special license as set forth in subparagraph (3), may serve malt liquor between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Monday.
 - (3) It is unlawful for any such establishment, directly or indirectly, to sell or serve intoxicating liquors as provided in subparagraph (1) or (2) 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.
 - (4) 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.
 - (5) An off-sale brewery may sell growlers, as defined in Sec. 409.08(18), at off-sale between the hours of 8:00 a.m. and 8:00 p.m. on Sundays.
- (d) *No consumption or display when prohibited.* No person shall consume or display or allow consumption or display of liquor upon the premises of an on-sale licensee at any time when the sale of such liquor is not permitted.
- (e) *Private Christmas parties.* Notwithstanding any other provision of the Legislative Code, the license holder of premises having an on-sale license may once a year during the Christmas season have a private party at no charge to the guests after the lawful closing hours; provided, that a written request for said party is submitted to the license inspector thirty (30) days prior to the proposed date of the party; and provided further, that no sales as defined by law of intoxicating liquors or nonintoxicating malt liquor shall be made at or during said party. The inspector shall notify the chief of police of the date of each proposed party.

Section 3

That **Sec. 409.06, subd. (i)** is amended to read:

- (i) *License location restrictions.* These restrictions shall not apply to off-sale/brew pub license, ~~or off-sale brewery licenses, or off-sale microdistillery licenses.~~

Section 4

That **Sec. 409.08. - Regulations generally** is amended to read:

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.
- (2) A "minor," as used herein, is any person under the age of twenty-one (21) years.
 - a. No licensee, or agent or employee thereof, shall serve or dispense upon the licensed premises any intoxicating liquor to any minor; nor shall such licensee, agent or employee permit any minor to be furnished with or to consume any such liquor on the licensed premises; nor shall such licensee, agent or employee permit any minor to be delivered any such liquor.
 - b. No minor shall misrepresent his or her age for the purpose of obtaining intoxicating liquor nor shall he or she enter any premises licensed for the retail sale of intoxicating liquor for the purpose of purchasing or having served or delivered to him or her for consumption of any such intoxicating liquor or beer nor shall any such person purchase, attempt to purchase, consume, or have another person purchase for him or her any intoxicating liquor or beer.
 - c. No minor shall induce any person to purchase, procure or obtain intoxicating liquor for him or her.
 - d. Proof of age for purposes of consuming, purchasing or possessing an alcoholic beverage, the consumption, sale or possession of which is regulated by age, may only be established by a valid driver's license or a Minnesota Identification Card issued pursuant to Minnesota Statutes, Section 171.07, or, in the case of a foreign national, by a valid passport.
- (3) No sale shall be made in any place or in part of a building where such sales are prohibited by state law or this chapter.
- (4) No person under eighteen (18) years of age may be employed in a place where intoxicating liquor is sold for consumption on the premises, except persons under eighteen (18) years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell intoxicating liquor and may be employed as waiters or waitresses at a restaurant, hotel or motel where only wine is sold; provided, that the person under the age of eighteen (18) may not serve or sell any wine.
- (5) Every licensee is hereby made responsible for the conduct of his place of business and required to maintain order and sobriety in such place of business.
- (6) No licensee shall keep, possess or operate, or permit the keeping, possession or operation of, on any licensed premises or in any room adjoining the licensed premises any slot machine, dice or any gambling device or apparatus, nor permit any gambling therein (whether or not licensed by the state),

nor permit the licensed premises or any room in the same or in any adjoining building directly or indirectly under his or her control to be used as a resort for prostitutes or other disorderly persons, except that pulltabs, tipboards, paddlewheels and raffle tickets may be sold on licensed premises when such activity is licensed by the state pursuant to Minnesota Statutes, chapter 349, and conducted pursuant to regulations contained in this Legislative Code. Notwithstanding the foregoing, a licensee may permit, for specific functions or events, up to five (5) times per calendar year, for which written notice is given to the department of safety and inspections at least forty-eight (48) hours in advance, the use of slot machines, dice and gambling devices on the licensed premises if (a) their presence or use on the licensed premises does not violate state or federal law, (b) their use is solely for social, recreational or amusement purposes, and not for fundraising of any kind or for any cause or purpose, and (c) no gambling other than lawful charitable gambling takes place on the licensed premises. Notwithstanding other provisions of this Legislative Code to the contrary, the council may permit an on-sale licensee to permit the holding of a single event, such as a banquet, that includes the sale of raffle tickets as a part of the event activity; provided, that such events are separate from the public areas of the licensed establishment, not open to the general public, and the raffle conducted by a charitable organization licensed by the State of Minnesota.

- (7) No dancing wherein the public participates, and no dancing, singing or other vaudeville exhibitions or entertainment shall be permitted on the premises of any on-sale licensee unless such premises are duly licensed for entertainment. Each on-sale licensee shall be responsible for all entertainment of any kind that is provided on the licensed premises, and by others on property in the same building as the licensed premises which the on-sale licensee owns or has the right to control, when such property has been leased or otherwise made available to another (hereafter, "rental property"). Each such on-sale licensee shall take reasonable and adequate steps to prevent entertainment and other activities on the rental property from violating any provision of law including, but not limited to, the noise regulations in Chapter 293 of the Legislative Code, and to prevent the conduct of persons present at or leaving the rental property from causing a nuisance in the community in the immediate area of the rental property. Such steps may include written lease agreements, conditions in each lease agreement for the rental property which require the provision of security guards, the limitation of the hours during which entertainment may take place, the termination of entertainment upon the receipt of two (2) or more noise complaints by the police, and consent for inspection of the rental property by the police or license division at times when the rental property is in use. Notwithstanding such steps, the on-sale licensee shall be subject to adverse action for entertainment and other activities taking place on the rental property or on the licensed premises which violate the provision of any law or ordinance, or which constitute a nuisance.
- (8) The license issued to said licensee shall be posted in a conspicuous place in that portion of the premises for which the license has been issued.
- (9) No person shall remain in or loiter in the parking lot of an on-sale licensee after the lawful closing hour.
- (10) When a licensee is notified by the police department that a parade will be held within one (1) block of the licensee's establishment, all beer and all intoxicating liquor or liquid of any type sold during the entire day of said parade shall be sold only in plastic or paper containers. In addition, upon receiving such notice, the licensee shall place a person at each entrance and each exit of the establishment at least one (1) hour prior to the time of parade, and the licensee shall require a person

to remain at those locations until one (1) hour after the parade, to ensure that patrons do not enter or exit with beer or intoxicating liquor.

- (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.
- (12) No person shall give, sell, procure or purchase intoxicating liquor to or for any person to whom the sale of intoxicating liquor is forbidden by law.
- (13) No person shall mix or prepare intoxicating liquor for consumption, or consume it, in any public place not licensed in accordance with this Code and the State of Minnesota.
- (14) No intoxicating liquor shall be sold or consumed on a public highway or in an automobile.
- (15) Each on-sale licensee shall have the responsibility of taking reasonable and adequate steps to prevent persons from leaving the licensed premises with a bottle, can or glass containing any alcoholic beverage, and the failure to do so may subject such licensee to adverse action against his or her license.
- (16) No person, group or association applying for or holding a license under this chapter shall restrict membership in its club or organization, or restrict access to the licensed premises or any facilities of such person, group or association, on the basis of race, creed, religion, sex, national origin or ancestry, age, disability, marital status or status with respect to public assistance. This provision shall not apply to any religious corporation, association or society with respect to membership or access based on religion, where religion is a bona fide qualification for membership or access. A violation of the foregoing shall constitute sufficient grounds for adverse action against the license or license application, including revocation or denial of the license.
- (17) An off-sale/beer pub and off-sale brewery may only sell at off-sale during legal hours for off-sale at exclusive liquor stores, except that an off-sale brewery may sell at off-sale between 8:00 a.m. and 8:00 p.m. on Sundays. ~~and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores~~ display at all times when off-sale is not authorized under this paragraph.
- (18) An off-sale/beer pub and off-sale brewery must package the malt liquor in 64-ounce containers commonly known as growlers, bearing a twist-type closure, cork, stopper or plug. At the time of the sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the closure, forming a seal that must be broken upon opening of the strip. The band, strip or seal must bear the name and address of the brewer, and the container must be identified as malt liquor, contain the name of the malt liquor and bear the name and address of the brewer selling the malt liquor and shall be considered intoxicating liquor unless otherwise labeled in accordance with

Minnesota Rules, part 7515.1100.

- (19) The total retail sales at on-sale or off-sale of a brewer licensed to sell at off-sale as an off-sale brew pub or an off-sale brewery may not exceed three thousand five hundred (3,500) barrels per year provided that off-sales may not total more than five hundred (500) barrels.
- (20) No licensee shall sponsor, advertise and/or host events for individuals under the age of twenty-one (21) such as "18 and up" nights, "college nights", "teen nights" or other such designations unless the events are held in a portion of the establishment where liquor, including 3.2 malt, is not consumed sold or served. The licensee will be responsible for insuring that individuals under the age of twenty-one (21) who enter to attend such events cannot gain access to an area where liquor is sold, served, permitted or consumed. Any advertisements in connection with such events must contain disclaimers that the events will be in an alcohol-free area of the establishment and that alcohol will not be sold or served to anyone under the age of twenty-one (21).
- (21) Licensees are responsible for insuring that any individual under the age of twenty-one (21), other than an employee, who enters the establishment is present only for the purpose of consuming a meal or attending a social function open to the public held in a portion of the establishment where liquor is not sold, consumed, served or displayed. The requirements of this section shall not apply to the River Centre complex, Midway Stadium, theaters or bowling alleys or social functions which are not open to the public.
- (22) Notwithstanding the provisions of paragraph (18), above, an establishment which holds an entertainment license may host up to twelve (12) live entertainment events annually at which individuals under the age of twenty-one (21) may be present, providing the establishment obtains a permit for such an event. A "live entertainment event" shall mean live musical performances by individuals or groups. The fee for such license shall be as set forth in Saint Paul Legislative Code § 310.18. No more than twelve (12) permits may be issued to any licensee annually and no more than one (1) event may occur within three (3) weeks of another such event. A permit issued hereunder is not effective for any premises other than the licensed premises. Application for such permit must be made at least two (2) weeks prior to the event. Any person obtaining an eighteen (18) and up permit shall be required to have in place a system of checking identification and identifying with indelible marks or non-removable wristbands those patrons who are not yet twenty-one (21). At no time during an event authorized pursuant to this section shall patrons be served more than one (1) alcoholic beverage per person from the bar, and servers will be required to independently verify that patrons have been carded for age prior to serving them alcoholic beverages. Notwithstanding any other provision of law, the council or the department of safety and inspections may, at any time and with respect to any establishment, deny such request for a permit or place additional conditions on permits issue hereunder 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. Appeal of the denial of a permit under this subdivision shall be to the city council.
- (23) An off-sale microdistillery may only sell at off-sale during legal hours for off-sale at exclusive liquor stores, and the distilled spirits sold off-sale must be removed from display at all times when off-sale is not allowed under this paragraph.
- (24) An off-sale microdistillery may not sell spirits at off-sale unless the brand is also available for

distribution by wholesalers.

Section 5

That **Sec. 409.25, subd. (b)** is amended to read:

- (b) *Liquor licenses.* Notwithstanding any other provision of this chapter, a club or charitable, religious or other nonprofit organization in existence for at least three (3) years, or a political committee registered under Minnesota Statutes, Section 10A.14, or a state university, a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year, or a microdistillery may obtain an on-sale license to sell intoxicating liquor for consumption on the licensed premises only and in connection with a social event within the city sponsored by the licensee. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the city. The fee for such license shall be as set forth in section 310.09(b) and 310.18 of the Saint Paul Legislative Code. The license shall not authorize the on-sale of intoxicating liquor for more than four (4) consecutive days. The city shall not authorize more than three (3) four-day, four (4) three-day, six (6) two-day, or twelve (12) one-day temporary licenses, in any combination not to exceed twelve (12) days per year for the sale of intoxicating liquor to any one (1) location within the city for a twelve-month period. The city may not issue more than one (1) such license to any one (1) organization or political committee, or any one (1) location, within a thirty-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

Section 6

That **Sec. 409.31. - Microdistillery cocktail room licenses** is amended to read:

- (a) *Definition.* A microdistillery cocktail room license shall mean a license authorizing the on-sale of distilled spirits produced by a microdistillery for consumption on the premises of or adjacent to one (1) microdistillery location owned by the microdistiller.
- (b) *Issuance of license; fee; conditions of license.* Microdistillery cocktail room licenses may be issued to the holder of a microdistiller's license under Minn. Stat. § ~~340A.301, subd. 6c~~340A.22. Said license may be issued without regard to section 409.03 limitations and are subject to the following conditions:
- (1) The license fee shall be paid in the amount listed in section 310.18 of this Code.
 - (2) The license shall be valid consistent with the hours of sale provided in section 409.07(a).
 - (3) A microdistiller may only hold one (1) cocktail room license under this section.
 - (4) A buyer's card is not required of an applicant for a microdistillery cocktail room license under this section.
 - (5) The only alcoholic beverages sold or consumed on the premises of the cocktail room will be distilled spirits produced by the microdistiller upon the microdistillery premises.
 - (6) No microdistillery cocktail room shall be located across a public right-of-way such as a street or

alley from the microdistillery location.

(7) All other provisions of this chapter shall be applicable to such licenses and licensees unless inconsistent with the provisions of this section.

(c) *Public hearing; notices.* No new microdistillery cocktail room license shall be issued until the council shall have first held a public hearing on the application. The notification requirements applicable to license transfers or change in section 409.11 shall be applicable in the issuance of such new licenses; provided, however, that the notification requirements may be waived by the city council under the procedure described in section 409.06(d).

(d) Nothing in this section shall preclude the holder of a microdistillery cocktail room license from also holding a license to operate a restaurant at the cocktail room location.

Section 7

That the following fee shall be added to **Sec. 310.18, subd. (e) ENFORCEMENT LEVEL 5:**

No.	License Description	Fee
409.02	Off-Sale Microdistillery	174.00

Section 8

These ordinance amendments shall take effect and be in force thirty (30) days from and after their passage, approval and publication.