

**City of South St. Paul
Dakota County, Minnesota**

Ordinance No. 1289

AN ORDINANCE AMENDING CHAPTER 18 REGARDING LICENSING

The City Council of the City of South St. Paul does ordain:

SECTION 1. REPEALER. South St. Paul City Code Sections 18-19 through 18-31 is hereby repealed.

SECTION 2. ENACTMENT. South St. Paul City Code Chapter 18 is hereby enacted as follows:

ARTICLE II. LICENSES AND PERMITS GENERALLY

Sec. 18-32. Policy and purpose of chapter.

By the enactment of this chapter, the city council intends to establish to the maximum degree possible a uniform system for the issuance, revocation, suspension and renewal of licenses and permits for all activities for which licenses and permits are required by this Code. The fees for licenses and permits are set in chapter 26 of this Code.

Sec. 18-33. Application of chapter.

(a) *General.* Where a provision of this Code requiring a license or a permit contains no procedure for issuance, revocation, suspension, renewal or fee, the provisions of this chapter apply.

(b) *Other provisions.* Where a provision of this Code requiring a license or a permit contains additional requirements, procedures or conditions, that provision prevails over this chapter.

Sec. 18-34. Licenses required.

It is unlawful to engage in any trade, profession, business or privilege in the city for which a license is required by this Code without first obtaining a license from the city in the manner provided in this article.

Sec. 18-35. Activity Conducted Without License.

When an activity that requires a license pursuant to the City Code is conducted without a license or the licensee has not renewed an existing license prior to its expiration date and the licensed activity continues, the city may pursue any one or all of the following remedies:

(a) No new license shall be granted until the applicant pays the late fee pursuant to section 18-38(c), unless otherwise approved by the City Council;

- (b) The city may issue a criminal citation for operating without a license;
 - (c) The city may issue an administrative citation for operating without a license;
 - (d) The city may post a cease and desist order (“Cease and Desist Order”) for the licensed activity preventing the business from conducting the activity until a license is approved.
- (1) If a business has an existing license for the licensed activity and the license expires, then the clerk shall provide the owner with 20 days’ calendar notice to cease and desist the activity (“Cease and Desist Notice”). If no completed application is received by the clerk prior to the expiration of the date given in the Cease and Desist Notice, then the city shall post a Cease and Desist Order for the activity for which a license is required.
 - (2) If a new business is conducting an activity for which a license is required or an existing business is conducting a new activity for which a license is required and no license has been approved, then the city may immediately and without notice, post a Cease and Desist Order for the activity for which a license is required.

Any business that continues to conduct an activity for which a license is required without an approved license shall be in violation of this ordinance.

Sec. 18-36. Application form.

Application for a license is made to the clerk on a form provided by the clerk. Certain licenses may require additional information. After the city has received a completed application, including all required documentation, the appropriate fees, and a completed background investigation, the license will be submitted to the City Council for consideration. Incomplete applications will be rejected by the clerk and will not be submitted to the City Council. The application must contain the following information:

(a) *Natural Person.* If the applicant is a natural person, the applicant may be required to provide the following information:

- (1) Name, place, and date of birth.
- (2) Street resident addresses of where the applicant has lived during the past five years and telephone numbers.
- (3) Whether the applicant is a citizen of the United States or a resident alien.
- (4) Whether the applicant has ever been known by a name other than the applicant’s name and, if so, the name or names used and information concerning dates and places used.

- (5) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five years and the names and addresses of the applicant's employers and partners, if any, for the preceding five years.
- (6) Whether the applicant has ever been convicted of a felony, gross misdemeanor, misdemeanor, including violations of a municipal ordinance, but excluding minor traffic violations, directly related to the business for which a license is sought. If so, the applicant must furnish information as to the date, time, place of conviction, and nature of the offenses.
- (7) A physical description of the applicant.
- (8) The applicant's current personal financial statement and copies of the applicant's federal and state tax returns for the two years prior to the application.
- (9) The applicant's social security number.
- (10) If the applicant does not manage the business, the name of the managers or other persons in charge of the business and all information concerning each of them pursuant to section 18-36(a)(1) through (7).

(b) *Partnership.* If the applicant is a partnership, the applicant may be required to provide the following information.

- (1) The names and addresses of all general and limited partners and all information concerning each general partner pursuant to section 18-36(a)(1) through (7).
- (2) The names of the managing partners and the interest of each partner in the licensed business.
- (3) A copy of the partnership agreement. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. § 333.01, a certified copy of the certificate must be attached to the application.
- (4) The applicant's federal tax identification number and Minnesota employer identification number.
- (5) If the applicant does not manage the business, the name of the managers or other persons in charge of the business and all information concerning each of them pursuant to section 18-36(a)(1) through (7).

(c) *Corporation.* If the applicant is a corporation or other organization, the applicant may be required to provide the following information:

- (1) The name of the corporation or business and the state of incorporation.

- (2) A copy of the Articles of Incorporation or Association Agreement, and Bylaws. If the applicant is a foreign corporation, a Certificate of Authority as required by Minn. Stat. § 303.06 must be attached.
- (3) The applicant's federal tax identification number and Minnesota employer identification number.
- (4) The name of the managers or other persons in charge of the business and all information concerning each manager, proprietor, or agent pursuant to section 18-36(a)(1) through (7).
- (5) A list of all persons who control or own an interest in excess of 5% in such organization or business or who are officers of the corporation or business and all information concerning the persons pursuant to section 18-36(a)(1) through (7). This provision, however, does not apply to a corporation whose stock is publicly traded on a stock exchange and the corporation is applying for a license to be owned and operated by itself.

(d) *Additional Information from All Applicants.* All applicants must provide the following additional information:

- (1) Whether the applicant holds a current license or has ever held a license from any governmental unit, including the city.
- (2) Whether the applicant has ever had a license in any city or state denied, revoked, or suspended and the reason for the denial, revocation, or suspension.
- (3) The name of the business, if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by Minn. Stat. § 333.01.
- (4) The street addresses and telephone numbers of the premises at which the business will be conducted.
- (5) The exact legal description of the premises to be licensed, if applicable.
- (6) If the applicant does not own the business premises, a true and complete copy of the executed lease for the premises.
- (7) If the applicant is applying for a personal business license, a copy of the independent contractor, employment agreement or executed statement from the business owner that the applicant is authorized to conduct business at the business premises.
- (8) Whether all real estate and personal property taxes that are due and payable for the premises have been paid and, if not paid, the years and amounts that are unpaid.

- (9) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true. If the applicant is a corporation, an officer must sign the written declaration. If the applicant is a partnership, a general partner must sign the written declaration. If the applicant is an unincorporated association, the manager or managing officer must sign the written declaration.
- (10) Where the approval of any city or state officer or the council is required prior to the issuance of a license, evidence of that approval.
- (11) Such other information as the city may require.

Sec. 18-37. Background Investigations.

In order to protect the general welfare of the public, certain license applications may require a personal background and/or a business background investigation. If so required, the investigations will be conducted pursuant to this section, as well as section 19-46 through 19-47. If the applicant simultaneously submits an application for more than one license and each license requires a personal and/or business background investigation, the applicant shall only be required to pay the fee for one personal background and one business background, if applicable. If the investigation fees for the various licenses differ, the higher fees shall apply.

(a) *Authorization.* At the time of making an initial or renewal license application that requires a personal or business background investigation, the applicant must provide written authorization to the city to investigate all facts set out in the application and to do a personal and business background investigation on the applicant. A criminal background investigation shall be conducted as part of a personal background investigation. The information obtained from the investigation shall be used to assist the Police Chief in making a recommendation as to whether the applicant should be granted a license. Such recommendation may be based on any of the following criteria:

- (1) Whether the applicant was convicted of a crime or offense in the last five (5) years involving or directly relating to the business for which a license is sought;
- (2) Whether there is a material misrepresentation in the application;
- (3) Whether the applicant is of good moral character.

(b) *Investigation Fee.* All applicants that must undergo a background investigation must pay an investigation fee with the license application. Separate fees shall be charged for personal background investigations and business background investigations. The City Council establishes the investigation fee by City Council Resolution.

Sec. 18-38. Payment of fees.

The prescribed fee for a license must be paid at the office of the clerk at the time application is made.

(a) *Fee Determination.* The fees for licenses are established by Chapter 26.

(b) *Refunds.* License fees are non-refundable.

(c) *Late Fees.* An applicant who submits a completed application to renew a license less than 30 days prior to its expiration date, shall pay a late application fee equal to 50% of the license fee, in addition to the license fee.

(d) *Pro-rated License Fees.* License fees will not be pro-rated for a portion of a license term except for the following licenses, payment for which shall only be for the portion remaining in the license term:

- (1) On-Sale Intoxicating Liquor
- (2) Pawnbroker
- (3) Precious Metal Dealer
- (4) Tobacco

(e) *Provisional License Fees.* The City Council may require an additional fee for Provisional Licenses that is in addition to the regular license fee, due to the extraordinary monitoring that is required by city staff. The additional Provisional License Fee shall be set by the City Council upon approval of a Provisional License.

Sec. 18-39. Bond and insurance.

(a) *Insurance.*

- (1) When a licensee or permittee is required to have in force a policy of insurance, the policy must be approved as to substance and form by the city. The policy must provide that it may not be cancelled without ten days' written notice to the clerk. The coverage must at least be for the term of the license or permit. Satisfactory evidence of coverage by insurance must be filed with the clerk before the license or permit will be issued.
- (2) Unless otherwise provided by this Code, a required policy of comprehensive liability insurance must provide for protection in at least the following amounts: \$200,000.00 for injuries including death therefrom sustained by any one person; \$600,000.00 for injuries including death resulting therefrom sustained by two or more persons as the result of any one occurrence; \$100,000.00 for property damage.
- (3) *Worker's Compensation.* Coverage as required by Minn. Stat. § 176.181, Subd. 2.

(b) *Bonds.* If a bond is required for a license or permit, the bond must be a corporate surety bond executed on a form approved by the city attorney and filed with the clerk before the license or permit is issued. Except as otherwise provided in this Code, a bond must be in the amount of

\$3,000.00, conditioned that the licensee or permittee will comply with the applicable code sections and laws pertaining to the licensed or permitted activity and that the licensee or permittee will indemnify the city and save it harmless from all loss or damage by reason of inadequate work performed by the licensee or permittee or by reason of accident caused by the negligence of the licensee or permittee and agents or employees of the licensee or permittee. The bond must provide that it may not be cancelled except upon ten days' written notice to the clerk.

Sec. 18-40. Inspections.

(a) *Prior to granting license.*

- (1) *Health inspection.* If the certification, endorsement or approval of the commissioner of health or public health sanitarian is required, the certification must be based upon an actual inspection and a finding that the person making application and the premises in which the applicant proposes to engage in such activity complies with sanitary requirements of the state and of the city.
- (2) *Fire inspection.* If the certification, endorsement or approval of the fire chief is required, the certification must be based upon an actual inspection and a finding that the premises in which the applicant proposes to engage in the activity complies with the fire regulations of the state and of the city.
- (3) *Police inspection.* If the certification, endorsement or approval of the police chief is required, the certification must be based upon an actual investigation of available police and court records and a finding that the person making application for the license will comply with all applicable laws and ordinances.
- (4) *Building inspection.* If the certification, endorsement or approval of the building inspector is required, the certification must be based upon an actual inspection and a finding that the premises in which the person making application proposes to engage in the activity complies with the use and occupancy regulations of the city.

(b) *Inspection of licensed premises.* A city official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine a licensee and the licensed business or premises to enforce compliance with applicable provisions of this Code. The authorized person may at any reasonable time enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code. If the licensee objects to the inspection of the licensed premises, the city official or employee charged with the duty of enforcing the provisions of this Code must procure a valid search warrant before conducting the inspection.

Sec. 18-41. License term.

Unless otherwise provided in this Code for intoxicating liquor licenses (section 6-77) and animal licenses (subsection 15-22(d)), all licenses expire on May 31 of each year. Where the

issuance of licenses for periods of less than one year is permitted, the effective date of the license is the date of issuance.

Sec. 18-42. Renewal of licenses.

Application for renewal must be filed with the clerk at least 30 days before the license expires.

Sec. 18-43. Transfer of license.

A license may not be assigned or transferred. The license does not authorize a person other than is therein mentioned or named to do business or authorize any other business than is therein mentioned or named to be done or transacted at a place than is therein mentioned or named. Where a license relates to specific premises, the license may not be changed to another location without approval of the council or other licensing authority.

Sec. 18-44. Premises Covered by License.

Unless otherwise authorized by this Code, the license issued is only effective for the compact and contiguous space specified in the approved license application.

Sec. 18-45. Duties of licensee.

(a) *Compliance required.* Licensees have the duties set forth in this section.

(b) *Inspection.* A licensee must permit inspections of the licensed business and examination of the business books and records by authorized officers of the city at reasonable times.

(c) *Compliance with law.* A licensee must comply with laws, ordinances, and regulations applicable to the licensed business, activity, or property.

(d) *Unlawful disposition.* A licensee may not lend or give the license or license insignia to another person.

(e) *Activity limited.* A person may not engage in an activity contrary to a term or condition of a license or contrary to the terms and conditions of the license established by the council.

Sec. 18-46. Display of license.

(a) *Personal Business License.* Where the license is a personal business license and the licensed activity is conducted at various locations or establishments, the licensee must carry the license on the licensee's person at all times when engaged in the activity for which the city granted the license.

(b) *Business License.* Where the licensed activity is conducted at fixed places of business or establishments, the certificate must be exhibited at all times in a conspicuous place on the premises. The license must be posted in a conspicuous place at or near the entrance to the business so that it may be easily read at any time.

(c) *License Display Requests.* The licensee must present the license certificate upon demand of any police officer or authorized representative of the city.

Sec. 18-47. License Hearing.

(a) *New or Renewal Application Consideration.*

(1) *City Council Action.* The City Council must take action on each new and renewal license application within a reasonable time following receipt of the recommendation from city staff regarding the application.

(2) *Procedure.* At the City Council meeting at which the license application is considered, any person must be provided an opportunity to be heard for or against the license. The City Council may then take any of the following actions:

a. Approve the license;

b. Deny the license;

c. Approve a Provisional License;

d. Approve the license with reasonable conditions; or

e. Continue the license application.

(3) *Provisional License.* The City Council may issue a Provisional License to any existing business that has generated more than 3 violations of City Code or State Statutes within the preceding 12-month period. Such violations of City Code may include, but are not limited to violations involving Public Nuisance, as defined by section 34-19, rental dwellings, or liquor. At the time of approval of the Provisional License, the City Council shall approve a mitigation plan that describes the steps the licensee must take to reduce the number of violations. The mitigation plan may include adding security measures, improving the exterior of the property, reducing or changing the hours of operation, holding neighborhood meetings, or other steps the Council deems appropriate. The license term for a Provisional License shall coincide with the 12-month license term of a regular license for the same activity.

(4) *License with Reasonable Conditions.* The City Council may add reasonable conditions upon approval of a regular license, if deemed appropriate.

(b) *Denial, Suspension, or Revocation.* The Council or its designee may hold a hearing to take action on a business license or licensed activity to deny, suspend, or revoke a license or to consider other actions against the business. Any license may be denied, suspended, or revoked for one or more of the following reasons:

- (1) The proposed use does not comply with the Zoning Ordinance.
- (2) The applicant has not submitted proof of a state business license, if required.
- (3) The applicant is under the age of 18.
- (4) The proposed use does not comply with a health, building, maintenance, or other provisions of the City Code or state law.
- (5) The applicant has relinquished legal control of the license activity.
- (6) The licensee has conducted the licensed activity at a place other than indicated in the original license application.
- (7) The applicant has failed to pay all of the appropriate fees related to the license, or is delinquent on any state, county or city fees or taxes.
- (8) The applicant has made fraudulent statements, misrepresentations, or false statements in the application or investigation for or in the course of the applicant's business.
- (9) Conviction of any crime or offense in the previous five (5) years involving or relating to the business that is licensed or the type of licensed activity and failed to show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the business.
- (10) The licensed activity has been conducted in such a manner as to constitute a breach of the peace, a menace to the health, safety, and welfare of the public, or a disturbance of the peace or comfort of the residents of the city, upon recommendation of the Police Chief or an appropriate city official.
- (11) Expiration or cancellation of any required insurance or failure to notify the city within a reasonable time of changes in terms of the insurance or the carriers.
- (12) The licensee has acted in an unauthorized manner or beyond the scope of the license granted.
- (13) The applicant's license has been denied, revoked, or suspended by the city, the state, or another government unit.
- (14) Failure to allow inspections of the licensed premises, for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- (15) Failure to continuously comply with all conditions required as precedent to the approval of the license.

- (16) Real estate or personal property taxes on the business premises have become delinquent and the property owner and the applicant are the same person or entity, or have any common ownership between the property owner and the applicant where they are a different person or entity.
- (17) Violation of any regulation or provision of the City Code or Zoning Ordinance applicable to the activity for which the license has been granted, or any regulation or state law that may be applicable.
- (18) The applicant or licensee has been found guilty of professional misconduct, either criminally or civilly.
- (19) Based on the findings of a background investigation, granting a license would be a menace to the safety, health, morals and welfare of the public.
- (20) The applicant or licensee is not of good moral character.
- (21) The licensee has violated a condition of its Provisional License.
- (22) The activity has been conducted without a license.
- (23) Other good cause.

(c) *Temporary Suspension.* The City Council or its designee may temporarily suspend a license pending a hearing on suspension or revocation when, in its judgment, the public health, safety, and welfare is endangered by the continuance of the licensed activity.

(d) *Suspension or Revocation Hearing.*

- (1) *Notice.* A hearing for consideration of suspending or revoking a license will be conducted before the City Council or its designee. Before holding the suspension or revocation hearing, the City must provide written notice informing the licensee of the right to a hearing. The notice must provide at least 20 calendar days' notice of the time and place of the hearing and must state the grounds for the action proposed to be taken. The notice may be served upon the licensee personally or by leaving the notice at the licensed premises with the person in charge, or by certified mail to the address on the license application or where the business activity is conducted.
- (2) *The Hearing.* At the hearing, the licensee has the right to be represented by counsel, the right to respond to the charges, the right to present evidence through witnesses under oath and the right to confront and cross-examine witnesses under oath.
- (3) *Final Decision.* Following the hearing, the City Council or its designee may take any of the following:
 - a. Take no action on the license;

- b. Allow the business activity to continue but add reasonable conditions to the license;
- c. Convert the license to a Provisional License and approve a mitigation plan;
- d. Suspend the license for up to 60 days;
- e. Revoke the license.

(4) *Findings.* Any actions taken following a hearing shall be adopted by resolution with findings and shall be sent to or served upon the licensee. If the license is suspended, the dates of suspension shall be fixed; if the license is revoked, the effective date of the revocation shall be fixed. The decision by the City Council or its designee following a hearing is final.

SECTION 3. SUMMARY PUBLICATION. Pursuant to Minn. Stat. § 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The new licensing ordinance clarifies the application process, hearing process, requirements for background investigations, and fees. The ordinance adopts a late fee for those applications that are not timely submitted. In addition, the ordinance provides for the Council to adopt conditions as part of a license approval, when it is appropriate.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective following its enactment and publication according to law.

Approved: March 16, 2015

Published: March 22, 2015

City Clerk