



## Legislation Details (With Text)

<b>File #:</b>	Ord 22-48	<b>Version:</b>	1
<b>Type:</b>	Ordinance	<b>Status:</b>	Passed
		<b>In control:</b>	City Council
		<b>Final action:</b>	11/9/2022
<b>Title:</b>	Amending Chapter 410 of the Legislative Code to eliminate petition requirements, reference and incorporate uniform license procedures as outlined in Section 310 of the Legislative Code and update gender specific language and other outdated terms.		
<b>Sponsors:</b>	Rebecca Noecker, Jane L. Prince		
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. "Class N" Business License Application Process and Code Clean-up, 2. District Council Class N License Notification form, 3. 410 Leg code amendments - Clean Copy, 4. 11.01.2022 LetterSt. Paul City Council_Support Class N Licensing, 5. Business Review Council Letter		

Date	Ver.	Action By	Action	Result
11/15/2022	1	Mayor's Office	Signed	
11/9/2022	1	City Council	Adopted	Pass
11/2/2022	1	City Council	Laid Over to Final Adoption	Pass
10/26/2022	1	City Council	Laid Over to Second Reading	

Amending Chapter 410 of the Legislative Code to eliminate petition requirements, reference and incorporate uniform license procedures as outlined in Section 310 of the Legislative Code and update gender specific language and other outdated terms.

### SECTION 1

WHEREAS, current individual City Licensing Ordinances contain notification, hearing, and petition requirements for specific business license types; and

WHEREAS, different license processes in different City Licensing Ordinances have created confusion among city staff and prospective license applicants as to the proper process to follow; and

WHEREAS, some of these requirements also unnecessarily increase the time it takes individuals to open a business; and

WHEREAS, the city seeks to improve the process by which community members learn about and provide input to support Council decision making related to business licenses; and

WHEREAS, time costs entrepreneur's money and impacts their interest and ability to open a business in Saint

Paul; and

WHEREAS, throughout the life cycle of a license, the City Council has the same rights, requirements, and abilities to take Adverse License Action (e.g. imposing conditions on a license); and

WHEREAS, after community listening sessions a stakeholder workgroup discussed business and administrative needs and brainstormed/researched solutions; and

WHEREAS, the workgroup recommended uniform license procedures, the removal of petition requirements, a shortened notification process, elimination of the license renewal public hearing provision and retaining the requirement that all Class N License Applications be put before City Council; and

WHEREAS, the City Attorney has determined, based on the opinion of other legal experts, that laws that exclude references to gender do not promote gender equality, and advises that gender-specific words should be replaced with gender-neutral words that have the same meaning when possible; and

WHEREAS, because the city attorney has determined, based on the opinion of other legal experts, that the use of the word "shall" in legal instruments is ambiguous depending upon context, and advises that the best practice of substituting the word "shall" with a more precise term, such as *must*, *will*, *may*, *should*, or *is* should be followed when possible, and

WHEREAS, implementation of these procedures requires amendments to individual licenses;

Now, therefore be it

RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

## SECTION 2

Saint Paul Legislative Code Section 410.01 is hereby amended as follows:

### **Sec. 410.01. - License required; definitions; license types, exceptions.**

- (a) ~~No person shall sell nonintoxicating malt liquors at retail in Saint Paul without a license.~~
- (b) ~~On-sale licenses shall permit the licensee for the sale of said nonintoxicating malt liquors to sell such for consumption on the premises. On-sale licenses shall be granted only to restaurants, hotels, bona fide clubs, establishments for the exclusive sale of nonintoxicating malt beverages and establishments licensed for the exclusive sale of intoxicating liquors. The term "bona fide clubs" shall include private clubs licensed under former Chapter 404 of this Code so long as they meet the requirements of Minn. Stat. § 340A.101, subsection 7.~~
- (c) ~~Off-sale licenses shall permit the licensee of such nonintoxicating malt liquors to sell same in original~~

packages for consumption off the premises only.

- (d) ~~Nothing herein contained shall be construed to prohibit the sale and delivery in original packages directly to the consumer by the manufacturer or distributor of nonintoxicating malt liquors.~~
- (e) ~~No off-sale license shall be issued for any place where nonintoxicating malt beverages shall be sold for consumption on the premises.~~
- (f) ~~"Nonintoxicating malt liquor" is any fermented malt liquor, potable as a beverage, containing not less than one-half of one percent ( $\frac{1}{2}$  of 1%) alcohol by volume nor more than three and two-tenths (3.2) percent alcohol by weight.~~
- (a) License Required: No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of 3.2 Percent Malt Liquor or Malt Liquor as part of a commercial transaction without having obtained the required license.

For the purposes of this chapter the following terms have the meanings given them.

- (b) Intoxicating Liquor means ethyl alcohol, distilled, fermented, spiritous, vinous and malt beverages containing more than 3.2 percent alcohol by weight.
- (c) Malt Liquor means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.
- (d) Off-sale means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.
- (e) On-sale means the sale of alcoholic beverages for consumption on the licensed premises only.
- (f) Retail means sale for consumption.
- (g) 3.2 Percent Malt Liquor means Malt Liquor containing not less than one-half ( $\frac{1}{2}$ ) of one (1) percent alcohol by volume nor more than 3.2 percent alcohol by weight.
- (h) On-sale 3.2 Percent Malt Liquor License means a license which may be issued to a drugstore, restaurant, hotel, bona fide club, bowling center, golf course and establishments used exclusively for the sale of 3.2 Percent Malt Liquor with the incidental sale of tobacco and soft drinks. The term "bona fide clubs" shall include private clubs licensed under former Chapter 404 of this Code so long as they meet the requirements of Minnesota Statutes Sections 340A.101, Subdivision 7.
- (i) Off-sale 3.2 Percent Malt Liquor License means a license which may be issued by the City for the sale of 3.2 Percent Malt Liquor for consumption off the premises.
- (j) On-sale Brewer Taproom License means a license, issued to the holder of a brewer's license, which authorizes the on-sale of Malt Liquor produced by the brewer, as defined in Minnesota Statutes Section 340A.101, Subdivision 4, for consumption on the premises of or adjacent to one brewery location owned by a brewer. A brewer that brews more than 250,000 barrels of malt liquor annually is not eligible for a Class N On-sale Brewer Taproom License.
- (k) Off-sale Malt Liquor Growler License means a license which authorizes a licensed brew pub or brewer to sell Growlers as defined in Minnesota Statutes Section 340A.285 (a) for off-sale consumption.
- (l) Temporary On-sale 3.2 Percent Malt Liquor License means a license which allows a club or charitable, religious, or nonprofit organization to sell 3.2 Percent Malt Liquor for on sale consumption.

### SECTION 3

Saint Paul Legislative Code Section 410.02 is hereby amended as follows:

#### **Sec. 410.02. - Fees.**

The ~~fee~~ fees required for licenses issued under this chapter ~~a license shall also be~~ are established by ordinance as specified in section ~~310.09(b)~~ 310.01. of the Saint Paul Legislative Code.

### SECTION 4

Saint Paul Legislative Code Section 410.03 is hereby amended as follows:

#### **Sec. 410.03. - Licensing requirements.**

For Class N Licenses issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (2) of the Saint Paul Legislative Code pertaining to Applications, New Applications Investigation and Review, Notice, Levels of Approval, Objections and Renewal Procedures for Class N Licenses apply.

For any Class T, Temporary License issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (3) of the Saint Paul Legislative Code pertaining to Applications, New Applications Investigation and Review, Notice, Levels of Approval, Objections and Renewal Procedures for Class T Licenses apply.

- (a) *Application.* In accordance with Saint Paul Legislative Code Section 310.02(2)(a) any person desiring a license to sell Malt Liquor or 3.2 Percent Malt Liquor must make their verified application in writing upon a form prescribed by the liquor control commission of the state and with additional information as the City requires. ~~Any person desiring either of the licenses as hereinbefore described shall first make an application therefor to the council of the City of Saint Paul by filing with the inspector of said city for presentation by him to the council of an application in writing therefor, which said application shall set forth with reasonable accuracy the name and place of residence of the applicant; the exact location of the place at which the applicant proposes to carry on the business of selling nonintoxicating malt liquors; and whether or not he has at any time previous to the date thereof been engaged in said business or in the business of selling foodstuffs in the City of Saint Paul, and if so, when and where. Said application shall be signed by the applicant in person or by an officer of the club seeking said license or by an officer of the corporation seeking said license, and when received by the inspector shall be by him placed on file, and the name of the applicant shall be by him registered in a book of registration to be kept in the office of said inspector for that purpose; provided, however, that said inspector shall not receive such application or register the name of said applicant unless the application is accompanied by the fee required by section 410.02.~~
- (b) *Reserved* Persons Eligible for Licenses Issued Under this Chapter. Notwithstanding the provisions of Minnesota Statutes, Chapter 364, a retail license may not be issued to:
1. persons under twenty-one (21) years of age;
  2. persons who have had a liquor license revoked within the last five (5) years;
  3. persons who have been convicted of a felony within the last five (5) years;

4. persons who have a direct or indirect interest in a manufacturer, brewer, or wholesaler;

5. persons who are not of good moral character and repute.

- (c) ~~No license after conviction; underage.~~ No license shall be issued, consistent with and subject to Minn. Stat. ch. 364, if the applicant has been convicted of any crime involving the manufacture, sale, distribution or possession for sale or distribution of intoxicating or nonintoxicating liquor or of any crime under Minn. Stat. § 152.09, subdivisions 1(1), 1(3) and 2. No license shall be issued to any person who is not at least twenty-one (21) years of age.
- (d d) *Exception if compliance with other bonding requirements.* For those applicants also applying for or already having an on-sale wine license pursuant to section 409.15 ~~409.13~~, compliance with the bonding requirements of section 409.06(i) 310.02 (2) satisfies the bonding requirements of paragraph (d c) of this section.
- (e) *Investigation.* The applicant shall permit representatives of the department of police and the department of safety and inspections to inspect and examine the place of business described in the application, together with all the appliances and instruments used or to be used in the transaction of the business for which the license is sought, and any refusal on the part of such applicant to permit such inspection shall be deemed as sufficient ground upon which the council shall refuse to issue the license applied for.
- (f d) *License within three hundred (300) feet of another license.* No license shall may be issued for off-sale 3.2 Percent Malt Liquor percent malt liquor for any location which is within a radius of three hundred (300) feet as measured from property line to property line of any existing establishment with a license to sell off-sale 3.2 percent malt liquor
- (1) The council may waive the restrictions set forth in paragraph (f) (d) above relating to distance if it makes findings that such a license is not inconsistent with the health, safety, morals and general welfare of the adjoining neighbors or community. Factors which may be considered include but are not limited to the following: the likelihood of increased noise, traffic, litter, loitering or unlawful behavior by patrons of the establishment, excessive artificial lighting, substantial decrease in adjoining property values, and the extent to which any of the potential problems can be addressed by conditions on the license.
- (2) An establishment holding a valid license on the effective date of this amendment is shall not be affected by this limitation but shall be entitled to have such license renewed so long as they are in compliance with all other requirements of law and there exist no grounds for adverse action against such license.
- (g e) *License near school.* No license for on-sale ~~nonintoxicating~~ malt liquors shall may be issued for any premises, except for a restaurant as defined in section 409.15 ~~409.13~~ of the Saint Paul Legislative Code having an on-sale wine or ~~intoxicating malt liquor license~~ 3.2 Percent Malt Liquor License, located within three hundred (300) feet from any school, 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 ~~nonintoxicating~~ malt liquor license to the property line of any school in the area for which the license is sought. This prohibition ~~shall does~~ not apply to any ~~nonintoxicating malt~~ Malt Liquor on-sale licenses issued or located within the Downtown Business District.

All licenses in force and effect on November 10, 1962, the location of which license is in conflict with the provisions hereof may be renewed or otherwise dealt with in accordance with law, it being the intent of this paragraph to be applied prospectively for proposed locations of licenses, and further it being the intent of this paragraph that the limitations set forth in this paragraph shall may in no manner be applicable to any hotel or motel.

Upon written petition signed on behalf of the school located within three hundred (300) feet of the proposed location of the license, the council may by a five-sevenths vote disregard the provisions of this

paragraph insofar as location adjacent to a school.

- (h) ~~*Public hearing; notices.*~~ No new on-sale or off-sale license shall be issued until the council's committee designated to hear license matters shall have first held a public hearing on the application. The notification requirements applicable to change in licensed areas in section 410.07 shall be applicable in the issuance of new licenses.
- (i f) *Unlawful use of weapons.* If during any twelve-month period there are reported two (2) or more incidents involving unlawful use or handling of firearms, assault weapons or knives, as defined in section 225.01, on any licensed on-sale premises, a public hearing shall must be conducted by the council. Any adverse action may be considered by the council pursuant to the hearing provisions of section 310.05 310.03.
- (j g) *Prohibited interests.* A holder of a license as manufacturer, brewer or wholesaler may not have any interest or ownership, in whole or in part, in a business holding a ~~nonintoxicating~~ malt liquor license or in the license so held, but a manufacturer or wholesaler of intoxicating or ~~nonintoxicating~~ Malt Liquor liquor may use or have property rented for retail nonintoxicating liquor sales if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. For the purpose of this paragraph the term "interest":
- (1) Includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, and a person who receives money from time to time, directly or indirectly, from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail license; and
  - (2) Does not include loans; rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to the establishment; an interest in a corporation owning or operating a hotel, but having at least one hundred fifty (150) or more rental units, holding a liquor license in conjunction therewith or ten (10) percent or less interest in any other corporation holding a license; and
  - (3) In determining whether an "interest" exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this paragraph must be considered.
- (k h) *Nonconforming clubs; transition.* The restrictions and requirements in sections 410.03(g e) and 410.04(g) of this chapter shall do not apply to licenses issued under this chapter to a club which at the time of an application for an on-sale license held a private club license under former Chapter 404 of this Code for the same premises for which the on-sale license hereunder is sought or will be issued for so long as the on-sale license remains at that location and the licensed premises is not enlarged. Such licensed premises will be deemed a lawful nonconforming use under the zoning code.

## SECTION 5

Saint Paul Legislative Code Section 410.035 is hereby amended as follows:

### **Sec. 410.035. - Insurance requirements.**

No license under this chapter may be issued, maintained or renewed unless the licensee or applicant therefor complies with the insurance requirements imposed by Minnesota Statutes, Section 340A.409. ~~Such insurance coverage shall comply with the requirements of Minnesota Statutes, Section 340A.409 and Chapters 7 and 8 of this Legislative Code.~~

## SECTION 6

Saint Paul Legislative Code Section 410.04 is hereby amended as follows:

### Sec. 410.04. - Regulations.

- (a) *Restrictions on minors.* A minor, as used herein, is any person under the age of twenty-one (21) years.
- (1) No licensee, or agent or employee thereof, ~~shall~~ may serve or dispense upon the licensed premises any ~~intoxicating liquor or nonintoxicating~~ malt liquors to any minor; nor ~~shall~~ may such licensee, agent or employee permit any minor to be furnished with or to consume any such ~~malt~~ liquors on the licensed premises; nor ~~shall~~ may such licensee, agent or employee permit any minor to be delivered any such ~~malt~~ liquors.
  - (2) No minor ~~shall~~ may misrepresent ~~his or her~~ their age for the purpose of obtaining intoxicating liquor or ~~nonintoxicating~~ malt liquor; nor ~~shall~~ may ~~he or she~~ any minor enter any premises licensed for the retail sale of intoxicating liquor or ~~nonintoxicating~~ malt liquor for the purpose of purchasing or having served or delivered ~~to him or her~~ for consumption of any such intoxicating liquor or ~~malt liquor~~ beer; nor ~~shall~~ may any such person purchase, attempt to purchase, consume or have another person purchase for him or her any intoxicating liquor or ~~malt liquor~~ beer.
  - (3) No minor ~~shall~~ may induce any person to purchase, procure or obtain intoxicating liquor or ~~nonintoxicating~~ malt liquor ~~for him or her~~.
  - (4) 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.
- (b) *Intoxicating liquor prohibited.* It ~~shall be~~ is unlawful for any person duly licensed to sell ~~nonintoxicating Malt Liquor~~ malt liquor, but not duly licensed to sell intoxicating liquor, or for any of ~~their~~ his agents, servants or employees, to keep, store, possess, have under ~~his~~ their control, sell or permit any person to keep, store or possess any intoxicating liquor upon said premises.
- It ~~shall be~~ is unlawful for such licensee, ~~his~~ their agents, servants or employees to permit the consumption of intoxicating liquor upon said premises.
- ~~For the purposes of this chapter, "intoxicating liquor" is hereby defined to mean and include ethyl alcohol and any distilled, fermented, spirituous, vinous or malt liquid of any kind potable as a beverage, which liquid contains an alcoholic content in excess of three and two-tenths (3.2) percent thereof by weight.~~
- (c) *Sales prohibited; hours.* No such ~~nonintoxicating~~ malt liquors ~~shall~~ may be sold either on-sale or off-sale between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday inclusive, nor between the hours of 1:00 a.m. and 12:00 noon on Sundays. Notwithstanding the foregoing, an establishment which has received a permit from the state which authorizes sale of 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~~ Director of the Department of Safety and Inspections. No on-sale licensee ~~shall~~ may permit any such nonintoxicating malt liquors to be consumed on its premises during the hours when the sale thereof is by this chapter prohibited. Notwithstanding the foregoing, establishments holding on-sale licenses issued under this chapter may remain open for the sale of food after the hours of sale provided therein and until 3:00 a.m. if they have

first obtained an extended service license. Such license ~~shall must~~ be a ~~class III~~ Class N license. Application ~~shall must~~ be made on such forms as may be provided by the ~~director of the department of safety and inspections~~ Director of the Department of Safety and Inspections. The fee for such license ~~shall be is~~ established by ordinance as provided in section ~~310.09(b)~~ 310.01 of the Legislative Code. The regulations in section 409.07.1(b), and notice and consent requirements in section 409.07.1(c) of the Legislative Code are applicable ~~shall apply~~ to extended service licenses under this chapter.

(c1) Extended hours for on-sale during World Cup. Notwithstanding the restrictions on the days and hours for on-sale of intoxicating liquor in this chapter, during a FIFA Women's World Cup competition or FIFA World Cup competition, a licensee may obtain a special World Cup extended hours permit from the city subject to the following conditions:

- (1) The permit will authorize the sale of alcoholic beverages thirty (30) minutes before, during, and thirty (30) minutes after a scheduled broadcast of a live World Cup match.
  - (2) The permit will not allow sales during broadcasts of previously played matches.
  - (3) Only holders of an existing on-sale intoxicating liquor license are eligible for a World Cup extended hours permit.
  - (4) The applicant must complete an application provided by the department of safety and inspections.
  - (5) The applicant must pay the World Cup extended hours permit fee of two hundred fifty dollars (\$250.00).
  - (6) This section expires September 1, 2023.
- (d) *Dancing.* Dancing wherein the public participates and dancing, singing and other vaudeville exhibitions or entertainment are hereby at all times prohibited on the premises of any off-sale licensee; provided, however, that if such premises are duly licensed for entertainment, such dancing, exhibitions or entertainment may be permitted.
- (e) *Music.* All music, by whatever means provided, is hereby prohibited upon the premises of any on-sale licensee between the hours of 9:00 p.m. of any one (1) day and 9:00 a.m. of the following day, except where such premises are duly licensed for entertainment; provided, that an on-sale licensee is hereby permitted to operate a radio and obtain music therefrom between said hours of 9:00 p.m. and 9:00 a.m.; provided further, that the tone of such radio is modulated so as not to annoy the occupants of nearby premises. The failure of any on-sale licensee using a radio between said hours to keep the same from becoming a nuisance to occupants of nearby premises ~~shall be is~~ deemed sufficient cause, in the discretion of the council, to revoke his their license to sell such ~~nonintoxicating~~ malt liquor.
- (f) *Sales on days of parades.* 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 ~~nonintoxicating malt beverages~~ Malt Liquor and liquid of any type sold during the entire day of said parade ~~shall must~~ be sold only in plastic or paper containers. In addition, upon receiving such notice, the licensee ~~shall must~~ 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 must~~ 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 Malt liquor ~~beer or intoxicating liquor~~.
- (g) *Parking; visual screen.* When an existing building is converted to on-sale ~~nonintoxicating~~ malt liquor purposes, existing off-street parking facilities which serve the building ~~shall must~~ 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 must~~ 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.



- (h) *Sale of ~~nonintoxicating~~ Malt liquor regulated.* No person shall ~~may~~ give, sell, procure or purchase ~~nonintoxicating~~ Malt liquor to or for any person to whom the sale of ~~nonintoxicating~~ Malt liquor is forbidden by law.
- (i) *Consumption in public place prohibited.* No person shall ~~may~~ mix or prepare ~~nonintoxicating~~ Malt liquor for consumption, or consume it, in any public place not licensed in accordance with this Code and the State of Minnesota.
- (j) *Sale or consumption in automobiles or on public highways prohibited.* No ~~nonintoxicating~~ Malt liquor shall ~~may~~ be sold or consumed on a public highway or in an automobile.
- (k) *Leaving licensed premises with ~~nonintoxicating~~ Malt liquor; responsibility of licensee.* No licensee shall ~~shall~~ may allow any person to leave a premises, for which an on-sale ~~nonintoxicating~~ Malt liquor license has been issued, with a bottle, can or glass containing any ~~nonintoxicating~~ Malt liquor. Each licensee ~~shall be~~ is responsible for 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 each licensee to adverse action against ~~his or her~~ their license.
- (l) No person, group or association applying for or holding a license under this chapter shall ~~may~~ 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 ~~does~~ 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~~ constitutes sufficient grounds for adverse action against the license or license application, including revocation or denial of the license.

## SECTION 7

Saint Paul Legislative Code Section 410.045 is hereby amended as follows:

### **Sec. 410.045. - Safety in on-sale establishments.**

This section applies to on-sale licenses for the sale of ~~nonintoxicating~~ Malt liquor.

- (a) *Notice to police chief.* The licensee ~~must~~ shall, within ~~thirty (30) days following November 4, 1994,~~ notify the chief of police in writing if any firearms as defined in section 225.01 of the Legislative Code are kept on or within the licensed premises. Such notice shall ~~must~~ include a description of each such firearm and the location where it is kept on the licensed premises. Thereafter, the licensee ~~must~~ shall notify the chief of police if there are any additional firearm or firearms, or changes in the location, number or description of each such firearm listed in the first notice, kept on or within the licensed premises, within five (5) days following any such change. The licensee is responsible for ensuring that the notification given to the chief is updated and accurate with respect to any changes in kind, number or location of firearms kept on or within the licensed premises.
- (b) *Training.* The licensee ~~must~~ shall, with respect to all employees who (1) are authorized to use a firearm on the licensed premises and (2) who are not prohibited by law from using such a firearm, provide training in firearms safety and the lawful use of deadly force, as well as in procedures for maintaining order and peace on the licensed premises by methods other than use of firearms and/or deadly force. The training required by this subsection shall be acceptable to the chief of police and provided for all existing employees ~~within ninety (90) days following November 4, 1994, and for future employees within~~ sixty (60) days following their employment.

## SECTION 8

Saint Paul Legislative Code Section 410.05 is hereby amended as follows:

### **Sec. 410.05. - Certain sexual conduct prohibited.**

The following acts or conduct on licensed premises are unlawful and ~~shall~~ must be punished as provided by section 1.05 of the Saint Paul Legislative Code:

- (1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (2) To employ or use the services of any ~~hostess~~ person while such ~~hostess~~ person is unclothed or in such attire, costume or clothing as described in subparagraph (1) above.
- (3) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- (4) To permit any employee or person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair or any portion thereof.
- (5) To permit any person to perform acts of or acts which simulate:
  - a. With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - b. Masturbation or bestiality.
  - c. With or upon another person the touching, caressing or fondling on the buttocks, anus, genitals or female breast.
  - d. The displaying of the pubic hair, anus, vulva or female breast below the top of the areola.
- (6) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
- (7) To permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.
- (8) To permit the showing of films, still pictures, pictures, electronic reproduction or other visual reproductions depicting:
  - a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - b. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
  - c. Scenes wherein a person displays the vulva or the anus or the genitals.
  - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

## SECTION 9

Saint Paul Legislative Code Section 410.06 is hereby deleted:

**Sec. 410.06. Restrictions on licenses.**

Where a reasonable basis is found by the council to impose reasonable restrictions upon a license held under this chapter, the council, upon issuing a new license or renewing a license, may impose reasonable conditions and restrictions pertaining to the manner and circumstances in which the business shall be conducted to preserve the public peace and protect and promote good order and security. These reasonable conditions or restrictions may pertain to:

- (1) A limitation as to the hours when nonintoxicating malt liquor may be sold and/or consumed on the licensed premises;
- (2) A limitation and restriction as to the exact location within a building where nonintoxicating malt liquor will be served and/or sold and/or consumed;
- (3) A limitation and restriction as to the means of ingress to or egress from the licensed establishment;
- (4) A requirement that certain off-street parking facilities be provided;
- (5) A condition that the license will be in effect only so long as the establishment remains primarily a restaurant;
- (6) A limitation and restriction as to the means and methods of advertising the sale of nonintoxicating malt liquor on the building and/or the premises adjacent thereto;
- (7) Reasonable conditions limiting the operation of the licensed premises so as to ensure that the licensed business will comport with the character of the district in which it is located and/or to the end that nuisances will be prevented.

SECTION 10

Saint Paul Legislative Code Section 410.07 is hereby renumbered 410.06 and amended as follows:

**Sec. 410.067. - Transfer of license Class N and Class T Licenses; change in service**

**Class T - Temporary extensions of service area.**

- (a) Transfer. No license granted hereunder shall be transferable from person to person or from place to place. No license granted for a specified part of any particular premises shall permit sales of such liquor on a part of such premises not specified in the license, or in an area adjacent to such licensed premises provided, however, that the license inspector or his or her designee may waive this limitation and allow a temporary extension of the liquor service area subject to the following criteria herein established by the city council. Failure to make a waiver and/or allow such a temporary extension is not adverse action and does not require notice and hearing in the event of denial or inaction: No on-sale license granted hereunder is transferable from person to person. No on-sale license granted hereunder is transferable from place to place (including changes in licensed areas) without the consent of the city council, which consent must be evidenced by resolution passed by the city council.
- (b) Service area; temporary extensions of service area. No license granted for a specified part of any particular premises may permit sales of such liquor on a part of such premises not specified in the license, or in an area adjacent to such licensed premises; provided, however, that the Director or their designee may waive this limitation and allow a temporary extension of the liquor service area subject to the following criteria herein established by the city council. Failure to make a waiver and/or allow such a temporary extension is not adverse action and does not require notice and hearing in the event of denial

or inaction:

- (1) No such extension shall may be for more than a continuous twenty-four-hour period and shall be valid only at times that liquor sales are allowed by law;
  - (2) No licensee shall may receive more than twelve (12) such service extensions in any calendar year;
  - (3) The temporary extended service area can be either indoors or outdoors, but must be immediately adjacent to the licensed premises;
  - (4) All business operations on or in the temporary extended service area must shall be in compliance with all other requirements of state law and of this chapter, and in particular shall must comply with the requirements of Chapter 293 of this Legislative Code relating to noise;
  - (5) The temporary extended service area, if outdoors, shall must be enclosed by a vertical fence or partition at least four (4) feet in height which allows control of access to and from the liquor service and consumption area;
  - (6) ~~The licensee shall present with his or her application for permission for a temporary extension either the written consent or nonobjection of the citizens' district council whose geographical area encompasses the licensed premises, or a petition containing a statement in writing with the signatures of sixty (60) percent or more of the owners and occupants of private residences, dwellings and apartment houses located within two hundred (200) feet of such premises stating that they have no objection to the granting of such temporary extension of service area. If such consent or nonobjection is refused or if such petition fails, the city council may by resolution authorize the temporary extension of the service area;~~
  - (7 6) The licensee shall must notify, at least ~~ten (10)~~ fourteen (14) days in advance of the date of the proposed temporary extension, all owners and occupants who own property or reside within three hundred fifty (300 350) feet of the property line within which the licensed establishment is located of the proposed temporary extension of liquor service. Such notice shall must be typewritten and include the location, date and time of the proposed extension of liquor service. The notice shall must specifically state: "If any person has comments about this proposed temporary extension of liquor service, they are encouraged to telephone the public information and complaint office". A copy of the notice must be submitted to the Department of Safety and Inspections at least ten (10) days in advance of the proposed extension. ; and
  - (8 7) ~~The licensee shall be required to apply for each such temporary extension in such form as the license inspector may require, and the fee for each such application, whether granted or not, shall be as set forth in section 310.18 of the Saint Paul Legislative Code.~~
- (b c) Transfers of stock in corporate licenses; change in officers.
- ~~The transfer of stock in any publicly held corporation which holds a license shall not be deemed a transfer within the meaning of this section. The transfer of stock or partnership shares, or changes in officers or directors, in any other corporation or business entity shall require the corporation or business entity to apply for and receive a new license in conformity with all requirements relating to the licensee and the licensed business, but not as to location or premises.~~
- The transfer of stock in any corporate license will be deemed a transfer within the meaning of this section, and no such transfer of stock may be made without the consent of the city council.
- (1) It is hereby made the duty of the officers of any corporation holding a license issued under the authority of this chapter to notify the Department of Safety and Inspections of any proposed sale or transfer of any stock in such corporation, and no such sale or transfer of stock will be effective without the consent of the council given in the manner above set forth. The transfer of any stock

without the knowledge and consent of the city council will be deemed sufficient cause for revocation by the council of any license granted to such corporation under the authority of this chapter.

- (2) Such corporate officers shall also notify the Department of Safety and Inspections whenever any change is made in the officers of any such corporation, and the failure to so notify the council shall likewise be sufficient cause for revocation of any liquor license granted to such corporation.
- (3) Notwithstanding the provisions of this section, publicly owned corporations whose stock is traded on the open market may comply with the requirements pertaining to stock ownership and stock transfer by furnishing the Department of Safety and Inspections with the names and addresses of all stockholders of record upon each renewal of the license.
- (4) An application for the transfer of such a license must be made by the transferee upon forms furnished by the Department of Safety and Inspections. Prior to the city council's consideration of said application, the application must be read by the city clerk at the next regular meeting of the city council.

(e d) Hearings. License transfers or changes in service area.

Notice and hearings for applications for permanent transfer of a license or change in licensed area will be handled in accordance with the procedures laid out in Saint Paul Legislative Code Sections 310.02 (2). Notice and hearings on application for temporary extension in service area will be handled in accordance with the procedures laid out in Saint Paul Legislative Code Section 310.02 (3). A public hearing is required upon an application for change in licensed area. At least forty-five (45) days before a public hearing on a transfer or change in licensed area, the department of safety and inspections shall notify by mail all owners and occupants who own property or reside within three hundred fifty (350) feet of the establishment at which the area is to be changed, and all community organizations that have previously registered with said department to be notified of any such application, of the time, place and the purpose of such hearing, said three hundred fifty (350) feet being calculated and computed as the distance measured in a straight line from the property line of the building where intoxicating liquor is sold, consumed or kept for sale to the property line owned, leased or under the control of the resident. A change in licensed area under this section only becomes effective upon compliance with this section and consent of the council by resolution. The failure to give mailed notice to owners or occupants residing within three hundred fifty (350) feet or community organizations, or defects in the notice, shall not invalidate the change in service area. Change in service area to an outside location (patio, deck, etc.) will also require payment of an additional license fee which shall be established by ordinance as provided in section 310.09(b) of this Code.

- (d e) The notification requirements of this section shall not be applicable where the change in service area is in an establishment within the downtown business district. For the purposes of this section, downtown business district shall include all that portion of the City of Saint Paul lying within and bounded by the following streets: Beginning at the intersection of Shepard Road with Chestnut Street, Chestnut Street to Pleasant Avenue, Pleasant Avenue to Kellogg Street, Kellogg Street to Summit Avenue, Summit Avenue to Tenth Street, Tenth Street to Interstate Freeway 94, Interstate Freeway 94 to Lafayette Bridge, Lafayette Bridge to where the bridge crosses over Warner Road, Warner Road to Shepard Road, Shepard Road to Chestnut Street.

## SECTION 11

Saint Paul Legislative Code Section 410.08 is hereby deleted:

**Sec. 410.08. Violations reported.**

It is hereby made the duty of the chief of police to notify the city council whenever any person is convicted

of a violation of this chapter. Such conviction shall be deemed sufficient cause for the city council to revoke any license issued to such convicted person under this chapter.

## SECTION 12

Saint Paul Legislative Code Section 410.09 is hereby renumbered as 410.07 and amended as follows:

### **Sec. 410.09 410.07. - Employees; owner's responsibility.**

Any act of any clerk, barkeeper, agent, servant or employee, in violation hereof, ~~shall be~~ is deemed the act of the employer and licensee of such place, as well as that of said clerk, barkeeper, agent, servant or employee, and every such employer and licensee ~~shall be~~ is liable to all the penalties provided herein for the violation of same equally with the clerk, barkeeper, agent, servant or employee.

## SECTION 13

Saint Paul Legislative Code Section 410.10 is hereby renumbered as 410.08 and amended as follows:

### **Sec. 410.10 410.08. - Temporary on-sale beer Malt Liquor license.**

- (a) Class T or Temporary License issued under this Chapter, the Uniform License Procedures laid out in Chapter 310.02 (3) of the Saint Paul Legislative Code pertaining to Applications, New Applications Investigation and Review, Notice, Levels of Approval, Objections and Renewal Procedures for Class T Licenses apply
- (b) *Temporary license; fee.* Notwithstanding any other provision of this chapter to the contrary, 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, may obtain a temporary on-sale license to sell ~~nonintoxicating~~ malt liquor on the premises specified in the license, including playgrounds, school grounds and school buildings. The fee for such license ~~shall be~~ is established by ordinance as provided in section ~~310.09(b)~~ 310.15 of the Legislative Code and shall be paid prior to issuance of the license.
- (b) ~~Application.~~ Application for such licenses shall be made on forms provided by the inspector and shall contain the following:
- (1) ~~The name, address and purpose of the organization, together with the names and addresses of its officers.~~
  - (2) ~~The purpose for which the temporary license is sought, together with the place, dates and hours during which the nonintoxicating malt liquor will be sold.~~
  - (3) ~~Consent of the owner or manager of the premises, or person or group with lawful responsibility for the premises, including city, county, or school district property.~~
  - (4) ~~Evidence that the manager or director has received alcohol awareness training provided by a bona fide instructor or the city.~~
- (c) *Conditions.* A All temporary license shall be licenses are issued subject to the following conditions:
- (1) Such license ~~shall~~ may be issued for a period not to exceed four (4) consecutive days.
  - (2) No more than three (3) four-day, four (4) three-day, two (2) six-day, or twelve (12) one-day temporary licenses, in any combination not to exceed twelve (12) days per year, may be issued for

the sale of nonintoxicating malt liquor to any one (1) organization or political committee, or any one (1) location, within a twelve-month period.

- (d) *Applicability of other provisions of this chapter.* No other provisions of this chapter shall apply to licenses granted under this section, except section 410.03(a) through (e c); section 410.035; section 410.04(a), (b) and (c); and sections 410.045, 410.05, 410.06, 410.07, 410.09 410.08 and 410.10 of the Legislative Code.
- (e) *Music, etc.* An organization licensed under this section may provide instrumental music with dancing, singing or vaudeville entertainment in connection with said license without regard to the requirements of chapter 411 of the Legislative Code. ~~concerning entertainment.~~
- (f) *Class T license.* Notwithstanding any other provision of law to the contrary, the temporary Temporary On-Sale 3.2 Percent Malt Liquor License ~~on-sale beer license~~ provided for in this section shall must be administered as a Class T license and subject to the provisions of these chapters governing Class T licenses. The ~~inspector shall~~ Director must make all referrals as provided by section ~~310.03~~ 310.02 (3), but the ~~director~~ Director may ~~require the inspector to~~ issue such license before receiving any recommendations on the application therefor if necessary to issue such license on a timely basis.

#### SECTION 14

Saint Paul Legislative Code Section 410.11 is hereby renumbered as 410.09 and amended as follows:

##### **Sec. 410.11 410.09. - Licenses for municipal golf courses.**

The ~~division of parks and recreation~~ Department of Parks and Recreation may be issued licenses for the sale of ~~nonintoxicating malt liquor~~ Malt Liquor at the Highland 18, Highland 9, Como and Phalen Golf Course Club Houses without payment of the license fee and without submission of the bond required under sections 410.02 and 410.03 of the Legislative Code.

#### SECTION 15

Saint Paul Legislative Code Section 410.12 is hereby deleted:

##### **~~Sec. 410.12. Revocation; suspension; fine.~~**

~~Any license or permit under this chapter may be either suspended for up to sixty (60) days or revoked or a civil fine imposed not to exceed two thousand dollars (\$2,000.00) for each violation on a finding by the council that the license or permit holder has failed to comply with an applicable statute, rule or ordinance relating to alcoholic beverages. No suspension, revocation or fine shall take effect until the license or permit holder has been afforded an opportunity for a hearing under section 310.05 of this Code.~~

#### SECTION 16

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