

STATE OF MINNESOTA
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Riddhi Mistry, being first duly sworn, deposes and says that on the sixteenth day of October she served the attached **NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF \$500 MATRIX PENALTY AND LICENSE SUSPENSION** and a correct copy thereof in an envelope addressed as follows:

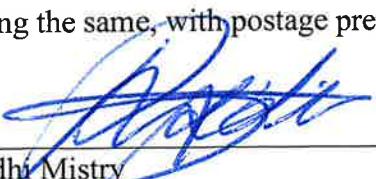
Taste of Rondo LLC
d/b/a Taste of Rondo Restaurant
976 Rondo Avenue
Saint Paul, MN 55104
Attn: Charles Carter

Charles Carter
1700 90th Street West
Bloomington, MN 55431

Rondo Pullman Porters Corner LLC
976 Rondo Ave.
Saint Paul, MN 55104-5419

Jens Werner-Executive Director
Summit University Planning Council
375 Selby Avenue # 9
Saint Paul, MN 55102

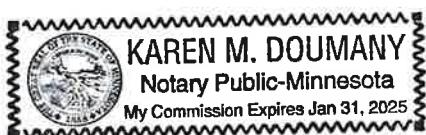
(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Riddhi Mistry

Subscribed and sworn to before me
This sixteenth day of October 2024



Notary Public





October 16, 2024

**NOTICE OF VIOLATION
AND REQUEST FOR IMPOSITION OF
\$500 MATRIX PENALTY AND LICENSE SUSPENSION**

Taste of Rondo LLC
d/b/a Taste of Rondo Restaurant
976 Rondo Avenue
Saint Paul, MN 55104
Attn: Charles Carter

RE: Liquor On Sale – 100 Seats or Less, Entertainment (A) Liquor On Sale Sunday and Gambling Location license held by Taste of Rondo LLC d/b/a Taste of Rondo Restaurant for the premises located at 976 Rondo Avenue, in Saint Paul.
License ID #: 20190000107

Dear Licensee:

The Department of Safety and Inspections ("Department") has recommended adverse action against the Liquor On Sale – 100 Seats or Less, Entertainment (A) Liquor On Sale Sunday and Gambling Location License held by Taste of Rondo LLC ("Licensee"). Taste of Rondo Restaurant located at 976 Rondo Avenue (Licensed Premises").

Legal Basis for Action:

Saint Paul Legislative Code §310.01, defines Adverse Action as:

"the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license."

Saint Paul Legislative Code §310.03 (m) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the licensed activity.



Saint Paul Legislative Code §310.02 (2)(a) 1 states: "*Form*. All applicants for a Class N License issued pursuant to these chapters will make both original and renewal applications to the director on such forms as are provided by the department. Such applications will not be received by the director deems the application meets the substantially complete criteria. Subsequently, issuance of a license cannot occur until insurance policies, bonds, deposits, sureties, and indemnifications or certificates required by these chapters, together with the certification required in paragraph 2 below are received and approved."

Saint Paul Legislative Code §310.02 (2)(e) 3 states: "*Levels of Approval. Revocation or suspension*. If the director determines that the application for renewal does not meet all of the requirements of law or that there exist grounds for revocation or suspension of a Class N License, the director must follow the hearing procedures as outlined in Saint Paul Legislative Code Section 310.03."

Saint Paul Legislative Code §310.03 (a)(m) 1(8) & 310.03 (m) 2 (10): "Presumptive penalties for certain violations" shown below:

Type of Violation	1 st	2 nd	3 rd	4 th
(8) Failure to pay license fees	Suspension	Revocation		
(10) Failure to make application for license renewal prior to license expiration date.	\$500.00	6-day suspension	18-day suspension	Revocation

Saint Paul Legislative Code §409.05 (a)(b) states:

- (a) "*Term*. All licenses for the sale of intoxicating liquor are be for a term of one (1) year from the date of the issuance or renewal, except as provided herein. The date shall be determined by the inspector and entered upon the license."
- (b) "*License fees, on-sale; semiannual installments*. The fees required for licenses is be established by ordinance as specified in section 310.01 of the Legislative Code. Said sum must be paid in two (2) equal amounts, the first to be paid before the license is issued or renewed, the second payment to be made within six (6) months from the date of issuance or renewal."



Saint Paul Legislative Code §409.06(j)(1) states: "An on-sale license renewal may be denied for any license who is delinquent in any payment or contribution to a health and welfare trust or pension trust."

Adverse Action Recommendation:

The Department of Safety and Inspections will recommend a \$500.00 matrix penalty and suspension of your license for violating Saint Paul Legislative Code § 310.02(2)(a) 1, 310.02(2)(e) 3, 310.03(a)(m) 1(8), 310.03 (m) 2 (10), 409.05(a)(b), and 409.06(j)(1). This is due to your failure to renew your license with supporting documents such as State Clarification, State Liquor Renewal and Liquor Liability Insurance, City of Saint Paul renewal application, Worker Compensation forms, Proof of MDH Restaurant License and failure to pay license fees. Your license will stay suspended until you cure these issues.

You have four (4) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **October 28, 2024**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent agenda for imposition of the \$500 matrix penalty and suspension of your License.
2. You can complete the renewal process including payment of the renewal fee and vehicle inspections. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **October 28, 2024**. Please contact the Department immediately.
3. If you wish to admit the facts but you contest the \$500 matrix penalty and suspension of your License, you may have a hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a Council hearing no later than **October 28, 2024**. The matter will then be scheduled before the City Council to determine whether to impose the \$500 matrix penalty and License suspension. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **October 28, 2024**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30



days), a hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.03 (k).

If you have not contacted me by October 28, 2024, I will assume that you do not contest the suspension of your License and imposition of the \$500 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact my Paralegal Riddhi Mistry at riddhi.mistry@ci.stpaul.mn.us , (651) 266-8835.

Sincerely,

Sly Onyia
Assistant City Attorney
License No. 0402320

Cc: Charles Carter, 1700 90th Street West, Bloomington, MN 55431
Rondo Pullman Porters Corner LLC, 976 Rondo Avenue, Saint Paul, MN 55104-5419
Jens Werner, Executive Director, Summit University Planning Council, 375 Selby Avenue # 9, Saint Paul, MN 55102

Attachments: Saint Paul Legislative Code §310.02(2)(a)1
Saint Paul Legislative Code §310.02(2)(e) 3
Saint Paul Legislative Code §310.03(a)(m) 1(8)
Saint Paul Legislative Code §310.03 (m) 2 (10)
Saint Paul Legislative Code §409.05(a)(b)
Saint Paul Legislative Code §409.06(j)(1)



SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall

Saint Paul, MN 55102

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CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

*The Saint Paul City Attorney's Office does not discriminate
based on race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status
in the delivery of services or employment practices.*

Sec. 310.01. - Definitions.

For the purposes of this chapter, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for Class R for routinely issued licenses, Class T for temporary licenses and Class N for licenses in which neighbors are required to be notified, under authority of the City of Saint Paul, the terms defined in this section have the following meanings:

Adverse action means the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

Bond means a bond meeting the requirements of section 310.05 and indemnifying the city against all claims, judgments or suits caused by, resulting from or in connection with any licensed business, activity, premises, thing, facility, occurrence or otherwise under these chapters.

Building official means the official in the department of safety and inspections charged with the responsibility of enforcement of the building code.

Chapters and these chapters mean this uniform license ordinance, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for class R, class T, and class N licenses under authority of the city.

Class R licenses means those licenses and certain permits which can be issued by the director without council approval if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class R Licenses follow the Procedures for Application for the Grant or Issuance of a License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(1). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS R			

Agricultural Vehicle Permit	\$23.00	R	<u>165</u>
Amusement Rides—Annual	\$85.00	R	<u>317</u>
Animal Boarding (Commercial)	\$83.00	R	<u>348</u>
Animal Boarding (Home Occupation)	\$83.00	R	<u>348</u>
Animal Day Care (Commercial)	\$83.00	R	<u>348</u>
Animal Day Care (Home Occupation)	\$83.00	R	<u>348</u>
Animal Foods Manufacturing and Distribution	\$85.00	R	<u>316</u>
Bituminous Contractor	\$210.00	R	<u>320</u>
Bowling Centers	\$210.00	R	<u>426</u>
Building Contractors	\$210.00	R	<u>326</u>
Building Trade Business License	\$188.00	R	<u>369</u>
Building Trades Certificate of Competency	\$24.00	R	<u>370</u>
Bulk Oil Storage	\$210.00	R	<u>342</u>
Christmas Tree Sales	\$85.00	R	<u>323</u>
Commercial Vehicle	\$78.00	R	<u>158</u>
Commercial Vehicle—Exempt	\$0.00	R	<u>158</u>
Courtesy Bench	\$26.00	R	<u>127</u>
Courtesy Benches Transfer	\$17.00	R	<u>127</u>
Finishing Shop	\$85.00	R	<u>371</u>

Game Room	\$210.00	R	<u>406</u>
House Sewer Contractor	\$210.00	R	<u>338</u>
Laundry/Dry-cleaning Plant	\$210.00	R	<u>327</u>
Laundry/Dry-cleaning Pick Up Station	\$85.00	R	<u>327</u>
Lawn Fertilizer and Pesticide Applicator	\$85.00	R	<u>377</u>
Liquid Fuel Dealer	\$210.00	R	<u>332</u>
Liquid Fuel Dealer Vehicle	\$85.00	R	<u>332</u>
Liquor Catering (State Cater/City Liq)	\$192.00	R	<u>409</u>
Mechanical Amusement Device	\$21.00	R	<u>318</u>
Massage Center—A (1 Practitioner)	\$100.00	R	<u>414</u>
Massage Center—A (Commercial)	\$262.00	R	<u>412</u>
Massage Center—B (Home Location)	\$106.00	R	<u>412</u>
Massage Practitioner	\$106.00	R	<u>414</u>
Massage Practitioner-Additional Location	\$31.00	R	<u>412</u>
Mercantile Broker	\$85.00	R	<u>340</u>
Mobile Retail Vehicle	\$85.00	R	<u>346</u>
Pedal Car	\$118.00	R	<u>374</u>
Pedal Car Business	\$352.00	R	<u>374</u>
Pedal Car Driver	\$51.00	R	<u>374</u>

Peddler	\$85.00	R	<u>345</u>
Peddler—Fee Waived	\$0.00	R	<u>345</u>
Pedicab Driver	\$51.00	R	<u>374</u>
Pedicab Vehicle	\$113.00	R	<u>374</u>
Pest Control	\$210.00	R	<u>334</u>
Pet Grooming Facility	\$85.00	R	<u>382</u>
Pet Shop	\$210.00	R	<u>347</u>
Pool & Billiard Hall	\$210.00	R	<u>322</u>
Recycling Collection Center	\$210.00	R	408
Recycling Processing Center	\$958.00	R	408
Rental of Hospital Equipment	\$85.00	R	<u>350</u>
Rental of Hospital Equip-Vehicle	\$85.00	R	<u>350</u>
Rental of Kitchenware	\$85.00	R	<u>351</u>
Roller Rink	\$85.00	R	<u>353</u>
Sanitary Disposal Vehicle	\$405.00	R	<u>354</u>
Second-Hand Dealer	\$85.00	R	<u>355</u>
Second-Hand Dealer (Comp/Elec)	\$85.00	R	<u>355</u>
Second-Hand Dealer (Antiques/Comp/Elec)	\$85.00	R	<u>356</u>
Second-Hand Dealer (Antiques)	\$85.00	R	<u>355</u>

Second Hand Dealer—Motor Vehicle Parts	\$507.00	R	<u>355</u>
Second-Hand Dealer—Multiple Dealers	\$405.00	R	<u>355</u>
Short-Term Rental (Non-Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental (Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental Platform	\$11,181.00	R	<u>379</u>
Sidewalk Cafe	\$40.00	R	106
Sidewalk Contractor	\$210.00	R	<u>356</u>
Solicitor	\$85.00	R	<u>345</u>
Solid Fuel Dealer	\$210.00	R	<u>333</u>
Solid Fuel Dealer Vehicle	\$85.00	R	<u>333</u>
Solid Waste Hauler & Vehicle	\$405.00	R	<u>357</u>
Solid Waste Hauler (Ea Add'l Veh)	\$85.00	R	<u>357</u>
Solid Waste Transfer Station	\$1,913.00	R	<u>357</u>
Sound Trucks & Broadcast Vehicle	\$85.00	R	<u>359</u>
Swimming Pool—Public	\$405.00	R	<u>360</u>
Tanning Facility	\$106.00	R	<u>380</u>
Taxicab Driver	\$51.00	R	<u>376</u>
Taxicab Vehicle	\$469.00	R	<u>376</u>
Taxicab Vehicle (Reciprocity Event)	\$37.00	R	<u>376</u>

Taxicab Service Company	\$456.00	R	<u>376</u>
Theaters and Movie Theaters	\$210.00	R	<u>416</u>
Tire Recapping Plant	\$85.00	R	<u>372</u>
Tobacco Products Shop	\$535.00	R	<u>324</u>
Tobacco Shop	\$535.00	R	<u>324</u>
Tow Truck/Wrecker (Operator)	\$405.00	R	<u>361</u>
Tow Truck/Wrecker (Vehicle)	\$85.00	R	<u>361</u>
Trade Worker Registration—Tier 1	\$37.00	R?	<u>370</u>
Trade Worker Registration—Tier 2	\$70.00	R	<u>370</u>
Trade Worker Registration—Tier 3	\$59.00	R	<u>370</u>
Trailer Rental	\$210.00	R	<u>352</u>
Tree Trimmer & 1 Vehicle	\$210.00	R	<u>362</u>
Tree Trimmer—Each Add'l Vehicle	\$85.00	R	<u>362</u>
Vehicle Immobilization Service	\$405.00	R	<u>383</u>
Veterinary Hospital	\$210.00	R	<u>364</u>
Window Cleaning	\$210.00	R	<u>365</u>
Wrecking of Buildings	\$65.00	R	<u>368</u>

Class T licenses means those licenses which can be approved or denied by the director, if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class T Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation

and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(3). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS T			
Amusement Rides—Temporary	\$32.00	T	<u>317</u>
Bingo/Rfls/P-Tabs/Tpbrds/Pdlwhls	\$59.00	T	402
Close Out Sale	\$85.00	T	<u>325</u>
Entertainment—Temporary	\$35.00	T	<u>411</u>
Liquor Catering (State Cater Only)	\$59.00	T	<u>409</u>
Liquor—Extension of Service Area	\$68.00	T	410
Liquor—Under Age Access (Temporary)	\$35.00	T	<u>409</u>
Liquor On Sale—Temporary	\$59.00	T	<u>409</u>
Malt On Sale (3.2)—Temporary	\$59.00	T	410
Massage Practitioner—Temporary	\$50.00	T	<u>412</u>
Second Hand Dealer—Exhibition	\$210.00	T	<u>355</u>
Tag Days	\$26.00	T	<u>391</u>
Temp On Sale Malt Brewery/Distillery	\$59.00	T	410
Transient Merchant	\$85.00	T	<u>345</u>

Wine On Sale-Temporary	\$59.00	T	<u>409</u>
Winery Annual Festival—Temporary	\$59.00	T	<u>409</u>

Class N licenses means those licenses which must be approved or denied by the council. Class N Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(2). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS N			
Auto Body Repair Shop	\$507.00	N	<u>423</u>
Auto Body Repair/Painting Shop	\$507.00	N	<u>423</u>
Auto Repair Garage	\$507.00	N	<u>423</u>
Bingo Hall	\$229.00	N	403
Cabaret—Class A	\$210.00	N	<u>322</u>
Cabaret—Class B	\$210.00	N	<u>426</u>
Conversation/Rap Parlor(A)	\$405.00	N	<u>413</u>
Conversation/Rap Parlor (B)	\$405.00	N	<u>413</u>
Culinary On Sale—Wine/Malt	\$255.00	N	<u>409</u>
Dance or Rental Halls	\$497.00	N	405

Dance Halls—Exempt	\$0.00	N	405
Entertainment—Extension	\$0.00	N	<u>411</u>
Entertainment (A)	\$278.00	N	<u>411</u>
Entertainment (B)	\$672.00	N	<u>411</u>
Entertainment (C)	\$3,191.00	N	<u>411</u>
Firearms	\$405.00	N	<u>225</u>
Gambling Hall	\$445.00	N	<u>278</u>
Gambling Location	\$84.00	N	<u>225</u>
Gas Station	\$154.00	N	<u>424</u>
Health/Sport Club	\$405.00	N	<u>427</u>
Health/Sport Club—Adult	\$405.00	N	<u>427</u>
Health/Sport Club-Exercise Only Facility	\$405.00	N	<u>427</u>
Infectious Waste Processing Facility	\$1,913.00	N	<u>427</u>
Liquor-Extension of Service Hours	\$405.00	N	<u>409</u>
Liquor—Microdistillery Cocktail Room	\$712.00	N	<u>409</u>
Liquor—Off Sale Micro Distillery	\$205.00	N	<u>409</u>
Liquor Off Sale	\$1,500.00	N	<u>409</u>
Liquor On Sale—100 seats or less	\$5,361.00	N	<u>409</u>
Liquor On Sale—101-180 Seats	\$5,937.00	N	<u>409</u>

Liquor On Sale—181-290 Seats	\$6,360.00	N	<u>409</u>
Liquor On Sale—291 or more Seats	\$6,448.00	N	<u>409</u>
Liquor On Sale—2 AM Closing	\$59.00	N	<u>409</u>
Liquor On Sale—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Over 100 seats (B)	\$5,022.00	N	<u>409</u>
Liquor On Sale—Over 200 seats (A)	\$5,454.00	N	<u>409</u>
Liquor On Sale—Sunday	\$200.00	N	<u>409</u>
Liquor On Sale—Sunday—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Theater	\$1,914.00	N	<u>409</u>
Liquor On Sale—Additional Family Members	\$62.00	N	<u>409</u>
Liquor On Sale (Government Agencies)	\$0.00	N	<u>409</u>
Liquor On Sale (Small Brewery—128 oz)	\$30.00	N	<u>409</u>
Liquor On Sale-Club under 200 Mbrs—A	\$300.00	N	<u>409</u>
Liquor On Sale-Club 201-500 Mbrs—B	\$500.00	N	<u>409</u>
Liquor On Sale-Club 501-1000 Mbrs—C	\$650.00	N	<u>409</u>
Liquor On Sale-Club 1001-2000 Mbrs—D	\$800.00	N	<u>409</u>
Liquor On Sale-Club 2001-4000 Mbrs—E	\$1,000.00	N	<u>409</u>
Liquor On Sale-Club 4001-6000 Mbrs—F	\$2,000.00	N	<u>409</u>
Liquor On Sale-Club over 6000 Mbrs—G	\$3,000.00	N	<u>409</u>

Liquor-Outdoor Service Area (Patio)	\$85.00	N	<u>409</u>
Liquor-Outdoor Service Area (Sidewalk)	\$40.00	N	<u>409</u>
Malt Off Sale (Brewery)	\$205.00	N	410
Malt Off Sale (Growler)	\$205.00	N	410
Malt Off Sale	\$225.00	N	410
Malt On Sale (3.2)	\$712.00	N	410
Malt On Sale (3.2)—Fee Waived	\$0.00	N	410
Malt On Sale (3.2)—2 AM Closing	\$0.00	N	410
Malt On Sale (Brewery Taproom)	\$712.00	N	410
Malt On Sale (Strong)	\$712.00	N	410
Massage Center—C (Adult)	\$405.00	N	<u>412</u>
Mini Motion Picture Theater-Adult (C)	\$405.00	N	<u>415</u>
Minnesota Currency Exchange	\$405.00	N	<u>381</u>
Motor Vehicle Dealer—New Vehicles	\$405.00	N	401
Motor Vehicle Salvage Dealer	\$405.00	N	<u>422</u>
Motorcycle Dealer	\$210.00	N	401
Parking Lot	\$405.00	N	<u>417</u>
Parking Lot/Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp (Government)	\$0.00	N	<u>417</u>

Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp/Garage (Private)	\$396.00	N	<u>417</u>
Pawn Shop	\$3,191.00	N	<u>344</u>
Second Hand Dealer—Motor Vehicle	\$507.00	N	<u>344</u>
Steam Room/Bath House (A)	\$405.00	N	<u>428</u>
Steam Room/Bath House (B)—Adult	\$405.00	N	<u>428</u>
Theaters and Movie Theaters-Drive In	\$210.00	N	<u>416</u>
Transportation Network Company	\$41,115.00	N	<u>373</u>
Wine On Sale	\$2,000.00	N	<u>409</u>
Wine On Sale (Government Agencies)	\$0.00	N	<u>409</u>

Department means the department of safety and inspections.

Director means the director of the department of safety and inspections and/or the director's designee or designees.

Fee means and includes both the license fee and application fee unless otherwise provided.

License means and includes all licenses and permits provided for or covered by these chapters.

License also includes licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of such licenses, for the purposes of making procedures in chapter 310 of the Legislative Code applicable to the approval or disapproval of such licenses.

Class N License District Council Notification Form means the form, provided by the Department to the license applicant as part of the Class N License application packet, which must be mailed or personally delivered to the district council by the license/applicant prior to the submission of the application for a license.

Person means and includes any person, firm, corporation, partnership, company, organization, agency, club or any group or association thereof. It shall also include any executor, administrator, trustee, receiver or other representative appointed by law.

Zoning administrator means the official in the department of safety and inspections charged with responsibility for enforcement of the zoning code.

(Ord 22-46, § 2, 11-9-22; Ord 23-32, § 2, 9-6-23)

Sec. 310.02. - Uniform procedures for application for the grant or issuance of the license, new application investigation and review, application denial, notice, levels of approval, objections and renewal procedures by license type.

1) *Class R Licenses.*

(a) *Application.*

1. *Form.* All applicants for a Class R License issued pursuant to these chapters must make both original and renewal applications to the director on such forms as are provided by the department. Such applications will not be received by the director until the director deems the application meets the substantially complete criteria. Subsequently, issuance of a license cannot occur until insurance policies, 01s, deposits, sureties, and indemnifications or certificates required by these chapters, together with the certification required in paragraph 2 below, are received and approved.
2. *Taxes.* No applicant will be granted a license or a renewal of a license required by the Saint Paul Legislative Code unless, in addition to any other requirements, rules or ordinances heretofore or hereafter required, the director determines that said applicant has paid all taxes, real or personal, before said taxes become delinquent, on any property, real or personal, situated within the City of Saint Paul and used in connection with the business operated under said license.
3. Notwithstanding the previous paragraph, the council or the director may issue or renew a license if it is found that:
 - (a) The applicant has made an agreement satisfactory to the Ramsey County Attorney to pay delinquent taxes in periodic installments;
 - (b) The applicant has properly commenced a proceeding to contest the amount of tax due or the valuation of their property, and has made all partial payments required by law in connection with such proceeding; or
 - (c) The business property with respect to which taxes are delinquent is not owned by the applicant, but by a lessor, and it would be inequitable to require the lessee to pay such taxes.
4. *Additional information.* the director will prescribe the information required to be submitted by each applicant in their application, in addition to that required by specific sections in these chapters, as may be necessary to carry out and enforce any provision hereunder. The director will require in every case the applicant to submit their name;

business or corporate name; names of partners, officers, directors, shareholders, or trustees involved in the business; age; address; description or blueprint of the premises, if any, and the owner thereof, and locations and addresses of other business locations in Minnesota.

5. *No reapplication within one (1) year after denial or revocation.* Unless an applicant is claiming evidence of rehabilitation as outlined in Minn. Stats. § 364.03, subd. 3, no applicant may apply for any license within one (1) year of the denial or revocation of the same or similar license by the city council, if such denial or revocation was based solely or partially upon misconduct or unfitness of the applicant, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. A license is "similar," within the meaning of this paragraph, if the basis upon which the revocation or denial of the original license was made would have been a relevant basis on which to deny or revoke a license of the type subsequently applied for.
6. *Reapplication after denial; "interest" of applicant in revoked license.* An application by a person having an interest in, or whose shareholders or officers have an interest in, any premises or enterprise whose license has been revoked or to which a license has been denied will be treated as an application by the person whose license was denied or revoked. The term "interest," as used in this paragraph, includes any pecuniary interest in the ownership, operation, management or profits of an establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide 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 such 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 license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license.
7. *Prohibition on reapplication; exception.* The prohibition on reapplication herein provided will not apply in cases where it is otherwise expressly provided by statute or ordinance.

(b) *New application investigation and review.* the director will determine the sufficiency and accuracy of each new application and obtain such criminal history information as may be used under Minn. Stats., chapter 364, and is otherwise available by law. The director will make reasonable and appropriate investigation of the premises or personal property, vehicles, or facilities, involved in or related to the licensed activity, and will request, where appropriate, the assistance of DSI divisions and other city divisions or departments in making additional investigations for the purpose of determining whether the applicant is or will be in compliance with all applicable ordinances and statutes. The approval of such other divisions or departments is not required for issuance of a license unless otherwise required by specific sections in these chapters. All new applications will be reviewed by the zoning administrator

or their designee for compliance with all requirements of the Saint Paul Zoning Code, and no new license will be granted without full compliance with said requirements. All new applications involving a premise, location, building or structure will be reviewed by the building official or their designee for investigation and recommendation.

(c) *Application denial.*

1. Denial of a Class R License application is adverse action and the procedures for notice and hearing outlined in Saint Paul Legislative Code Section 310.03 must be followed.

(d) *Notice.*

1. Upon verification that an application for a Class R License is substantially complete, the notification requirements outlined in ENS Chapter A-11(11)(c) must be followed and the required ENS notice must be provided within two (2) public business days.

(e) *Levels of approval:*

1. *Approval recommended without conditions.* Where an application for the grant, issuance or renewal of a Class R License meets all the requirements of law, and there exists no grounds for denial, revocation or suspension of, or the imposition of conditions upon, such license, the director must grant, issue, or renew said license in accordance with the application.
2. *Approval recommended with conditions.* If upon review of an application for the grant, issuance, or renewal of a Class R License the director determines that there exist grounds for imposition of conditions, the director must provide the applicant or licensee notice and an opportunity to be heard in accordance with section 310.03.
3. If the prospective licensee does not object to the proposed conditions, the director will request that the matter be placed on the council consent agenda. The director shall notify the prospective licensee.
4. If the prospective licensee objects to the conditions proposed by the director, the director must follow the hearing procedures outlined in Saint Paul Legislative Code Section 310.03 and refer the matter to a hearing examiner.
5. Revocation or suspension. If the director determines that the renewal application for the renewal of a license does not meet all of the requirements of law or that there exist grounds for revocation or suspension of a Class R License the director will follow the hearing procedures as outlined in Saint Paul Legislative Code Section 310.03.

(f) *Objections.* An appeal to the city council may be taken by any person aggrieved by the grant, issuance, or renewal of a Class R License provided that:

1. The appeal must be filed with the city clerk within thirty (30) days after the action by the director.

2. The only grounds for appeal will be that there has been an error of law in the grant, issuance, or renewal of the license.
3. The appeal will be in writing and will set forth in particular the alleged errors of law.
4. The council will conduct a public hearing on the appeal within thirty (30) days of the date of filing and will notify the licensee and the appellant at least ten (10) days prior to the hearing date.
5. The procedures set forth in section 310.03, insofar as is practicable, will apply to this hearing. Following the hearing, the council may affirm or remand the matter to the director, may reverse the director's decision, or place conditions upon the license based on the council's determination that the director's decision was based on an error of law.
6. The filing of an appeal will not stay the issuance of the license.

(g) *Renewal procedures.*

1. Class R Licenses may be automatically renewed by the director.
2. No waiver by renewal. The renewal of a Class R License will not be deemed to be a waiver of any past violations or of any grounds for imposition of adverse action against such license.

2) *Class N Licenses.*

(a) *Application.*

1. *Form.* All applicants for a Class N License issued pursuant to these chapters will make both original and renewal applications to the director on such forms as are provided by the department. Such applications will not be received by the director until the director deems the application meets the substantially complete criteria. Subsequently, issuance of a license cannot occur until insurance policies, bonds, deposits, sureties, and indemnifications or certificates required by these chapters, together with the certification required in paragraph 2 below are received and approved.
2. *Taxes.* No applicant will be granted a license or a renewal of a license required by the Saint Paul Legislative Code unless, in addition to any other requirements, rules or ordinances heretofore or hereafter required, the director determines that said applicant has paid all taxes, real or personal, before said taxes become delinquent, on any property, real or personal, situated within the City of Saint Paul and used in connection with the business operated under said license.
3. Notwithstanding the previous paragraph, the council or the director may issue or renew a license if it is found that:
 - (a) The applicant has made an agreement satisfactory to the Ramsey County Attorney to pay delinquent taxes in periodic installments;

- (b) The applicant has properly commenced a proceeding to contest the amount of tax due or the valuation of their property, and has made all partial payments required by law in connection with such proceeding; or
- (c) The business property with respect to which taxes are delinquent is not owned by the applicant, but by a lessor, and it would be inequitable to require the lessee to pay such taxes.

If a license is issued or renewed because of the existence of an agreement as described in subsection (a) above, the license may be revoked if the licensee defaults upon such agreement.

4. *Additional information.* the director will prescribe the information required to be submitted by each applicant in their application, in addition to that required by specific sections in these chapters, as may be necessary to carry out and enforce any provision hereunder. The director will require in every case the applicant to submit their name; business or corporate name; names of partners, officers, directors, shareholders, or trustees involved in the business; age; address; description or blueprint of the premises, if any, and the owner thereof, and locations and addresses of other business locations in Minnesota.
5. *No reapplication within one (1) year after denial or revocation.* Unless an applicant is claiming that they have evidence of rehabilitation as outlined in Minn. Stats. § 364.03, subd. 3, no applicant may apply for any license within one (1) year of the denial or revocation of the same or similar license by the city council, if such denial or revocation was based solely or partially upon misconduct or unfitness of the applicant, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. A license is "similar," within the meaning of this paragraph, if the basis upon which the revocation or denial of the original license was made would have been a relevant basis on which to deny or revoke a license of the type subsequently applied for.
6. *Reapplication after denial; "interest" of applicant in revoked license.* An application by a person having an interest in, or whose shareholders or officers have an interest in, any premises or enterprise whose license has been revoked or to which a license has been denied will be treated as an application by the person whose license was denied or revoked. The term "interest," as used in this paragraph, includes any pecuniary interest in the ownership, operation, management or profits of an establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide 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 such 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 license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license.

7. *Prohibition on reapplication; exception.* The prohibition on reapplication herein provided will not apply in cases where it is otherwise expressly provided by statute or ordinance.

(b) *New application investigation and review.* the director will determine the sufficiency and accuracy of each new application and obtain such criminal history information as may be used under Minn. Stats., chapter 364, and is otherwise available by law. The director will make reasonable and appropriate investigation of the premises or personal property, vehicles, or facilities, as may be involved in or related to the licensed activity, and will request, where appropriate, the assistance of DSI divisions and other city divisions or departments in making additional investigations for the purpose of determining whether the applicant is or will be in compliance with all applicable ordinances and statutes. The approval of such other divisions or departments is not required for issuance of a license unless otherwise required by specific sections in these chapters. All new applications will be reviewed by the zoning administrator or their designee for compliance with all requirements of the Saint Paul Zoning Code, and no new license will be granted without full compliance with said requirements. All new applications involving a premise, location, building or structure will be reviewed by the building official or their designee and inspections for investigation and recommendation.

1. *Verification of Class N License District Council Notification Form.* the director must take reasonable efforts to ensure that the district council has notified the department by email that the Class N License District Council Notification Form has been received.

(c) *Application denial.*

1. Denial of a Class N License application is adverse action and the procedures for notice and hearing outlined in Saint Paul Legislative Code Section 310.03 must be followed.

(d) *Notice.*

1. Upon receipt of an application for a Class N License, the notification requirements outlined in ENS Chapter A-11(11)(c) must be followed.

The application must then be reviewed and once the director deems the application fully reviewed as required by these chapters and makes a recommendation, both the notice requirements outlined in ENS Chapter A-11 (14) and the required mailing must be provided. Notices must describe the license application received, staff recommendations (e.g., any conditions) and the process for public comment and objections.

(a) *Required mailing.* The director must notify by mail all owners and occupants who own property or reside within three hundred fifty (350) feet of the establishment to which the license is to be issued, of any such application, 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 the prospective license will be located to the property line owned, leased or under the control of the resident and owners of the existence of an application and set the deadline for public comment at least fifteen (15) days after the date of mailing. The director must submit to the council a list of the names and addresses of each person or organization to whom notice was sent, and certification of such list by the director will be conclusive evidence of such notice and such notice will be attached to the resolution before council.

- (b) The failure to give mailed notice to owners or occupants residing within three hundred fifty (350) feet, or to community organizations, or defects in the notice, does not invalidate the council approval provided a bona fide attempt to comply with this section has been made. A bona fide attempt is evidenced by a notice addressed to "owner" and to "occupant" of the listed address. Only one (1) notice need be mailed to each house or each rental unit within a multiple-family dwelling regardless of the number of occupants.
- (c) *Notice requirement not applicable in downtown business district.* The notification requirements of this section shall not be applicable where the license is to be transferred to a place located within the downtown business district. For 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 Interstate Freeway 35E, Interstate Freeway 35E 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 the Wabasha Bridge, the Wabasha Bridge across the Mississippi River to the water line on the south bank of the river, thence in a westerly direction along the shore line to the point at which it intersects with "Line A," and then in a straight line across the Mississippi River to the intersection of Chestnut Street with Shepard Road. The location and legal description of "Line A" is indicated on the map attached hereto and incorporated and adopted herein by reference.
- (e) *Levels of Approval.*
 1. *Approval with or without conditions.* All Class N Licenses require council approval. If there are no conditions or the prospective licensee does not object to the proposed conditions, the director will request that the matter be placed on the council consent agenda. The director will notify the prospective licensee.
 - 2.

If the prospective licensee objects to the conditions proposed by the director and/or the conditions added by the legislative hearing officer after a hearing, the director must follow the hearing procedures as outlined in Saint Paul Legislative Code Section 310.03 and refer the matter to a hearing examiner.

3. *Revocation or suspension.* If the director determines that the application for renewal does not meet all of the requirements of law or that there exist grounds for revocation or suspension of a Class N License, the director must follow the hearing procedures as outlined in Saint Paul Legislative Code Section 310.03.
- (f) *Objections.* If the director is recommending issuance of the Class N License, but the affected neighborhood organization(s) or other interested persons give notice within the fifteen (15) day period for public comment of objection to issuance of the license, the director must refer the matter for a hearing before the legislative hearing officer.
 - a. The legislative hearing officer will set a hearing date and give notice of the time, place, and date of the hearing to the affected neighborhood organizations(s) and the applicant.
 - b. At the hearing, the legislative hearing officer will take testimony from all interested persons.
 - c. If the applicant cannot agree with license conditions suggested by the legislative hearing officer, the legislative hearing officer will make a recommendation to the council as to whether the matter should be referred for a hearing before an independent hearing examiner in accordance with the procedures set forth in Section 310.03.
 - d. After the legislative hearing, the legislative hearing officer must prepare a report and recommendations for council and set the matter on the council consent agenda.
- (g) *Renewal procedures.*
 1. *Renewal procedures.* Class N Licenses may be automatically renewed by the director.
 2. *No waiver by renewal.* The renewal of a Class N License will not be deemed to be a waiver of any past violations or of any grounds for imposition of adverse action against such license.

3) *Class T Licenses (Temporary).*

(a) *Application.*

- 1.

Form. All applicants for a Class T License issued pursuant to these chapters will make original applications to the director on such forms as are provided by the department. Such applications will not be received by the director until the director deems the application meets the substantially complete criteria. Subsequently, issuance of a license cannot occur until insurance policies, bonds, deposits, sureties, and indemnifications or certificates required by these chapters, together with the certification required in paragraph 2 below are received and approved.

2. *Taxes.* No applicant will be granted a license or a renewal of a license required by the Saint Paul Legislative Code unless, in addition to any other requirements, rules or ordinances hereafter required, the director determines that said applicant has paid all taxes, real or personal, before said taxes become delinquent, on any property, real or personal, situated within the City of Saint Paul and used in connection with the business operated under said license.
3. Notwithstanding the previous paragraph, the council or the director may issue a license if it is found that:
 - a. The applicant has made an agreement satisfactory to the Ramsey County Attorney to pay delinquent taxes in periodic installments;
 - b. The applicant has properly commenced a proceeding to contest the amount of tax due or the valuation of their property, and has made all partial payments required by law in connection with such proceeding; or
 - c. The business property with respect to which taxes are delinquent is not owned by the applicant, but by a lessor, and it would be inequitable to require the lessee to pay such taxes.

If a license is issued because of the existence of an agreement as described in subsection (a) above, the license may be revoked if the licensee defaults upon such agreement.

4. *Additional information.* the director will prescribe the information required to be submitted by each applicant in their application, in addition to that required by specific sections in these chapters, as may be necessary to carry out and enforce any provision hereunder. The director will require in every case the applicant to submit their name; business or corporate name; names of partners, officers, directors, shareholders, or trustees involved in the business; age; address; description or blueprint of the premises, if any, and the owner thereof, and locations and addresses of other business locations in Minnesota.
5. *No reapplication within one (1) year after denial or revocation.* Unless an applicant is claiming that they have evidence of rehabilitation as outlined in Minn. Stats. 364.03, subd. 3, no applicant may apply for any license within one (1) year of the denial or revocation of the same or similar license by the city council, if such denial or revocation was based

solely or partially upon misconduct or unfitness of the applicant, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. A license is "similar," within the meaning of this paragraph, if the basis upon which the revocation or denial of the original license was made would have been a relevant basis on which to deny or revoke a license of the type subsequently applied for.

6. *Reapplication after denial; "interest" of applicant in revoked license.* An application by a person having an interest in, or whose shareholders or officers have an interest in, any premises or enterprise whose license has been revoked or to which a license has been denied will be treated as an application by the person whose license was denied or revoked. The term "interest," as used in this paragraph, includes any pecuniary interest in the ownership, operation, management or profits of an establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide 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 such 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 license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license.
7. *Prohibition on reapplication; exception.* The prohibition on reapplication herein provided will not apply in cases where it is otherwise expressly provided by statute or ordinance.

(b) *New application investigation and review.* the director will determine the sufficiency and accuracy of each new application and obtain any pertinent criminal history information as may be used under Minn. Stats., chapter 364, and is otherwise available by law. The director will make reasonable and appropriate investigation of the premises or personal property, vehicles, or facilities, as may be involved in or related to the licensed activity, and will request, where appropriate, the assistance of DSI divisions and other city divisions or departments in making additional investigations for the purpose of determining whether the applicant is or will be in compliance with all applicable ordinances and statutes. The approval of such other divisions or departments is not required for issuance of a license unless otherwise required by specific sections in these chapters. All new applications will be reviewed by the zoning administrator or their designee for compliance with all requirements of the Saint Paul Zoning Code, and no new license will be granted without full compliance with said requirements. All new applications involving a premise, location, building or structure will be reviewed by the building official or their designee for investigation and recommendation.

(c) *Application denial.*

- a. Denial of a Class T License application is adverse action and the procedures for notice and hearing outlined in Saint Paul Legislative Code Section 310.03 must be followed.

(d) *Notice.* There is no notice requirement for Class T licenses.

(1) Temporary liquor license applications do not require notification action by the director upon receipt of an application under Chapter A-11. Notification requirements, if any, are handled by the applicant as part of the application process as outlined in the relevant section of the Saint Paul Legislative Code.

(e) *Levels of approval.*

(1) *Approval recommended without conditions.* Where an application for the grant or issuance of a Class T License meets all the requirements of law, and there exists no grounds for denial, revocation suspension of, or the imposition of conditions upon such license, the director must grant or issue said license in accordance with the application.

(2) *Approval recommended with conditions.* If upon review of an application for the grant, or issuance of a Class T License the director determines that there exist grounds for imposition of conditions the director must provide the applicant or licensee notice and an opportunity to be heard in accordance with the hearing procedures outlined in Saint Paul Legislative Code Section 310.03.

(f) *Objections.* An appeal to the city council may be taken by any person aggrieved by the grant, issuance or renewal of a Class T License provided that:

1. The appeal must be filed with the city clerk within thirty (30) days after the action by the director.
2. The only grounds for appeal will be that there has been an error of law in the grant, issuance, or renewal of the license.
3. The appeal will be in writing and will set forth in particular the alleged errors of law.
4. The council will conduct a hearing on the appeal within thirty (30) days of the date of filing and will notify the licensee and the appellant at least ten (10) days prior to the hearing date.
5. The procedures set forth in section 310.05, insofar as is practicable, will apply to this hearing. Following the hearing, the council may affirm or remand the matter to the director, may reverse the director's decision or place conditions upon the license based on the council's determination that the director's decision was based on an error of law.
6. The filing of an appeal will not stay the issuance of the license.

(g) *Renewal procedures.* Class T Licenses are not automatically renewed. If a licensee wishes to Renew a Class T License, they must file a new application for a new Class T License.

(Ord 22-46, § 5, 11-9-22; Ord 23-32, § 3, 9-6-23)

Sec. 310.03. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee must be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee must be notified in writing that adverse action may be taken against the license or application, and that they are entitled to a hearing before action is taken by the council. The notice must be served or mailed a reasonable time before the hearing date, and must state the place, date and time of the hearing. The notice must state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the director or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing must be held before the council. Otherwise the hearing must be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee must be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.

(c-1) *Procedure; hearing examiner.* The hearing examiner will hear all evidence as may be presented on behalf of the city and the applicant or licensee, and must present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council will consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and may not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council must provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations,

together with such additional arguments presented at the hearing, the council must determine what, if any, adverse action should be taken, which action must be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein will prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, means and includes a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken must contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions must be complied with and supersede inconsistent provisions of these chapters. This includes, without limitation by reason of this specific reference, Minn. Stats., Chapter 364 and Minn. Stats., § 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to

withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action must be prepared by the director and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as, but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the intoxicating liquor; nonintoxicating malt liquor; presumptive penalty matrix in subsection (m) below; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole

discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions must be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision must be controlling.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council must provide written reasons that specify why the penalty selected was more appropriate.

1. **General presumptive penalties matrix**—The general penalty matrix is to be used if there is not a specific penalty matrix for the license type or a category within the specific penalty matrix does not address the violation.
2. **Intoxicating liquor; malt liquor; presumptive penalty matrix.**

Presumptive penalties for intoxicating liquor and nonintoxicating malt liquor violations. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Penalties for convictions or violations are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) For on-sale intoxicating liquor establishments with a seating capacity of one hundred fifty (150) or more, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (b) For off-sale intoxicating liquor establishments with five thousand one (5,001) or more square feet of retail space, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (c) *Other penalties.* Nothing in this section restricts or limits the authority of the council to suspend licenses for up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.02 of this Code.

(d) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.

(1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:

- a) Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
- b) Promote availability of nonalcoholic beverages and food;
- c) Promote safe transportation alternatives other than driving while intoxicated;
- d) Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;
- e) Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
- f) Implement comprehensive training procedures;
- g) Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
- h) Establish a standardized method for hiring qualified employees;
- i) Reprimand employees who violate employer policies and procedures; and
- j) Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:

- a) Management policies that are implemented at the time of service and that ensure that proof of identification (as established by state law) is examined for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
- b) Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
- c)

Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under the general presumptive penalty matrix will apply.
- (b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:
- (c) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:
 - (1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.* A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix.* Measurement of the twenty four (24) month period must be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

- (i) *Fines payable without hearing.*
 - A. Notwithstanding the provisions of section 310.03(c), a licensee who would be making a first or second appearance on a violation that calls for a monetary fine before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- (ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in the Penalty Matrixes above. The occurrence of multiple violations is grounds for departure from such penalties in the council's discretion.
- (iii) *Violations occurring after the date of the notice of hearing.* Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) up to twenty (20) days before the hearing, and may in that case be treated as though part of the "1st Appearance" unless grounds for upward deviation from the presumptive penalties outlined in the presumptive penalty matrix outlined in 310.03(m) are included in the amended notice of the violation. In all other cases, violations occurring after the date of the formal notice of hearing must be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures must apply to a second, third or fourth appearance before the council.
- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance.
- (v) *Computation of time.*

- (1) *Second appearance.* A second violation within twelve (12) months must be treated as a second appearance for the purpose of determining the presumptive penalty.
- (2) *Third appearance.* A third violation within eighteen (18) months must be treated as a third appearance for the purpose of determining the presumptive penalty.
- (3) *Fourth appearance.* A fourth violation within twenty-four (24) months must be treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (4) Any appearance not covered by subsections (1), (2) or (3) above must be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period is as follows: The beginning date shall be the earliest violation's date of appearance before the council or payment of the fine related to the violation, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
- (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions must be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same must be counted as a third appearance regardless of how much time has passed since the first or second appearance.
- (6) Violations of the general presumptive penalty matrix, the intoxicating liquor, malt liquor presumptive penalty matrix and the tobacco presumptive penalty matrix are meant to be cumulative. For the purpose of a second, third or fourth appearance under this section, "violation" shall must mean either one of those violations listed in paragraph (m)1, 2, or 3.

(Ord 22-46, § 3, 11-9-22)

Sec. 409.05. - On- and off-sale licenses; term; fees.

- (a) *Term.* All licenses for the sale of intoxicating liquor are to be for a term of one (1) year from the date of issuance or renewal, except as provided herein. The date shall be determined by the inspector and entered upon the license.
- (b) *License fees, on-sale; semiannual installments.* The fees required for licenses is to be established by ordinance as specified in section 310.01 of the Legislative Code. Said sum must be paid in two (2) equal amounts, the first to be paid before the license is issued or renewed, the second payment to be made within six (6) months from the date of issuance or renewal.
- (c) *On-sale license; replacement after revocation.* If, for any reason, the on-sale license in this chapter provided for is revoked by the council of the City of Saint Paul, no replacement license shall be issued until the full license fee for the new license due for the remainder of the license year is first paid; provided, however, that in no event shall a licensee pay less than the applicable annual license fee together with the applicable issuance tax for a license, or combination of licenses, during a license year.
- (d) *Increase in on-sale license fee; notice to licensees.* The director is hereby directed to notify in writing via U.S. mail all on-sale licensees of the public hearing date for council consideration of any amendments to this section increasing the license fees. At said public hearing, the department of safety and inspections must present evidence to the council showing the relationship between the proposed fee increase and the costs borne by the city for liquor-related regulating and policing.
- (e) *Late fees.* Notwithstanding the provisions of section 310.01, an applicant for renewal of an on-sale liquor license must be charged a late fee in an amount of ten (10) percent of the installment due for such license for each thirty-day period or portion thereof which had elapsed after the expiration date of such license or semiannual period, and the late fee must not exceed fifty (50) percent of the annual fee.
- (f) *Annual license fees for clubs and private clubs.* The annual license fee for a club and a private club must be in conformity with Minnesota Statutes, Section 340.408, subdivision 2(b).
- (g) *License fee lawful gambling locations.* The license fee for lawful gambling locations must be as provided in section 310.01 of the Legislative Code.
- (h) *Application with family members.* Notwithstanding subsection (a) of this section, where an existing on-sale intoxicating liquor license holder makes application for a new on-sale license for the same location together with one (1) or more family members as additional license holders, the term of the new license must coincide with the end of the existing license and end on the same date. No additional license fee for the new license must be paid for the remainder of the term of the existing license, so long as the license fees for the existing license are fully paid. The normal license fee must be paid in any case for the remainder of the term of the existing license.

Each additional family member becoming a license holder must fill out an application form for purposes of the background investigation by the license division and provide such other information as may reasonably be required by the license division and must pay a fee with the application in an amount as set forth in section 310.01 of the Saint Paul Legislative Code. The term "family members," for the purpose of this subsection shall include parents, children, grandchildren, brothers and sisters, together with the spouses of such parents, children, grandchildren, brothers and sisters.

- (i) *Fee waived for government agencies.* The fee for any license under Chapter 409 must be waived for any license issued to and used by a division or department of the city.

(Ord 22-47, § 6, 11-9-22)

Sec. 409.06. - 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 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.

- (a) *Application.* In accordance with Saint Paul Legislative Code Section 310.02(2)(a) and Minnesota Statute 340A.412, Subd. 2a. Any person desiring a license to sell intoxicating liquor must make their verified application in writing upon a form prescribed by the liquor control commissioner of the state and with any additional information as the City requires.
- (b) Notice requirements for applications to sell intoxicating liquor are outlined in the Uniform License Procedures for Class N licenses section of 310.02(2)(d) of the Saint Paul Legislative Code.
- (c) *One license only.* With the exception of off-sale brewers who meet the requirements under Minn. Stat. § 340A.29 more than one (1) off-sale retailer's license may be directly or indirectly issued to any one (1) person or for any one (1) place in this city, nor may any retailer's off-sale license be directly or indirectly issued for any place for which a license of another class has been granted. It is not a violation of this paragraph for a person who owns, directly or indirectly, or who has an interest in any intoxicating liquor license in this city additionally to own directly or indirectly or to have an interest in one (1) or more corporations owning or operating a hotel holding an intoxicating liquor license in connection therewith; provided, that such hotel must have at least one hundred fifty (150) or more rental units.
- (d) *Premises of license.* No on-sale or off-sale license is effective beyond the compact and contiguous space named in such license and for which the same was granted, except that an on-sale license granted for sales in the dining room of any hotel may permit sales of liquor with meals in additional dining rooms open to the public and specified in the license if meals are regularly served to guests therein. If meals are regularly served to guests in guest rooms in any such hotel, liquor may be sold in such guest rooms but only with meals; provided, that such guest rooms must be specified in the license granted. No sales may be made upon the premises of an on-sale licensee except upon the ground floor; provided, however, that this limitation does not apply to a hotel duly licensed to sell on another floor as in this section provided; and provided further, that a licensee shall be permitted to sell at a place in a building other than the ground floor if a license has been granted for sales on a floor other than such ground floor. Licenses granted to a private nonprofit college need not be compact

and contiguous as long as the space described is on the premises of the private nonprofit college. All licenses granted hereunder must set forth the exact location within the building structure where such sales may be made and no sale is permitted except in that part of the premises defined in the license, except as provided in the following subsection (e).

(e) *Seasonal outside service areas.* The council may, by resolution, permit any licensee to sell or serve intoxicating liquors in areas outside the building structure on public or private property which are compact and contiguous with the structure containing the licensed premises. Property which is not connected to the licensed premises cannot be used as an outside service area if it is located across a right-of-way such as a street or alley; however curbside seating may be allowed at a sidewalk café subject to the restrictions of Chapter 106 of the Saint Paul Legislative Code. Such outside service areas shall be seasonal, and must not involve an enlargement of the building structure. The seasonal outside service area license will not be granted unless all the conditions of subsections (1) through (7) and all pertinent provisions of the zoning code are satisfied.

- (1) Seasonal outside seating area permits follow the uniform license procedures for the grant, issuance or transfer of the license, new application investigation and review, notice, levels of approval, objections and renewal procedures for Class N licenses laid out in Saint Paul Legislative Code Section 310.02 (2) and 310.09 except that in the event that the council wishes to revoke a seasonal outside seating area permit, the procedures outlined in Subd. 4 must be followed.
- (2) No outside service area is permitted unless the licensee provides, in addition to other requirements of law, safety barriers or other enclosures to protect patrons from any hazards, including vehicular traffic.
- (3) No outside service area may be located on public property or upon any street, alley or sidewalk, nor may such outside service areas hinder or obstruct vehicular or pedestrian traffic on any street, alley or sidewalk. Notwithstanding the foregoing, the sale and service of alcoholic beverages within a sidewalk cafe which is in compliance with the provisions of section 106.01 of the Legislative Code, is permitted.
- (4) In addition to the levels of approval and grounds for denial or revocation laid out in Saint Paul Legislative Code Section 310.02 (2), the council may, by resolution, impose conditions on or deny any application for an outside service area where it has reason to believe, or may revoke its permission for such an outside service area where it is satisfied, that the impact of such outside service area on adjoining property will be, or has been, any of the following:
 - a. Loud, boisterous or disturbing noise levels;
 - b. Hazardous traffic conditions;

- c. Offensive, obnoxious or disturbing odors;
- d. Excessive litter;
- e. Excessive artificial lighting;
- f. Substantial decrease in adjoining property values; or
- g. Any other condition inconsistent with the reasonable use and enjoyment of adjoining property and inconsistent with the health, safety, morals and general welfare of the adjoining neighbors or community.

(5) *Revocation of a seasonal outside seating area permits.* Permission to sell and serve intoxicating liquor in or upon any outside service area may be revoked by the council on three (3) days' notice to the licensee, pursuant to information received at a public hearing before said council. The information need not be received under oath but must reasonably satisfy the council as to the existence of any or all of the conditions listed in subparagraph (4). The public hearing must be conducted with such formal or informal procedures as the council may permit, so long as the licensee and any complaining parties have an opportunity to be heard.

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

(7) *Private nonprofit colleges.* Private nonprofit colleges may sell or serve intoxicating liquors in areas outside of building structures as long as said areas are clearly described in the application materials submitted under section 409.06(a)(2). Such areas are exempt from the additional public hearing and consent process described in section 409(g), subdivisions 1 and 2.

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

(g) *Off-Sale License location restrictions.* These restrictions do not apply to off-sale/brew pub license, off-sale brewery licenses, small brewer off-sale—128 ounces licenses or off-sale micro-distillery licenses.

(1) No off-sale license may be issued for any place where nonintoxicating malt beverages are sold for consumption on the premises.

(2) No off-sale license may be issued to any location within a half-mile radius of any existing off-sale establishment, subject to the following exceptions:

- a. In the downtown business district, the distance restriction is reduced to a radius of three hundred (300) feet.
- b. For off-sale liquor establishments outside of the downtown business district that were licensed prior to January 15, 2003, the council may waive the half-mile distance restrictions provided that council finds by resolution that:
 1. The off-sale liquor establishment is relocating to a location that is within one-half (½) mile radius of its current location; and
 2. The relocation of the off-sale liquor establishment is related to hardship or circumstances outside of the licensee's control; and
 3. The new location of the off-sale liquor establishment meets the intent of the ordinance in preventing the over-concentration of off-sale liquor establishments; and
 4. The new location of the off-sale liquor establishment 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.

(3) No license may be issued for an off-sale location which is within three hundred (300) feet of residentially zoned property, a park or a licensed child-care center, 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 off-sale liquor license to the property line of any residentially zoned property, park or child care center in the area for which the license is sought.

- a. The council may waive the restrictions set forth in paragraph (3) 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.
- b. A request to vary the license location restrictions must be noticed in accordance with the uniform procedures for Class N licenses laid out in Saint Paul Legislative Code Section 310.02(2) (d) and approved per Saint Paul Legislative Code Section 310.02(2)

(e)

- c. An establishment holding a valid license on the effective date of this amendment is not affected by this limitation and will 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.
- (h) *Other required permit.* No license granted hereunder is effective until a permit is issued to such licensee by the United States if any such permit is, in fact, required.
- (i) *State restrictions.* No license may be issued to any person in connection with the premises of another to whom no license could be issued under the provisions of the state liquor control act; provided, however, that this provision must not prevent the granting of a license to a proper lessee by reason of the fact that they are leasing the premises of a minor, noncitizen or a person who has been convicted of a crime other than a violation of this chapter or the liquor control act.
- (j) *Renewals.*
 - (1) An on-sale license renewal may be denied for any licensee who is delinquent in any payment or contribution to a health and welfare trust or pension trust.
 - (2) *On-sale.* Renewal of on-sale licenses are subject to the provisions of Minnesota Statute 340A.412, Subd. 13 and may not be renewed if the holder of the license has not made on-sales authorized by the license at any time during the one-year period immediately prior to the date of the renewal:
 - i. Subject to of Minnesota Statute 340A.412, Subd. 13., if on or before the expiration of the license the licensed business has discontinued its operation or closed for any reason, the council must by resolution, renew said license only upon the condition that the licensee must reopen and restore the licensed business to full operation within the terms of the renewed license, or in the alternative, that the licensee must make application for and obtain passage, approval and publication of a resolution for the transfer of said license within the term of the renewed license to another person.
 - ii. No license issued upon condition pursuant to this subsection may be further renewed unless one (1) or the other of the above conditions has been fully met; provided, however, that the council may reissue a license for a business which has not been in full operation during the prior license year if the licensed premises were acquired by eminent domain or under the threat of eminent domain and the licensee has made a good faith attempt to relocate the business to another location.
 - (3) *Off-sale.* If on or before the expiration of an off-sale license, the licensed business has discontinued its operation or closed for any reason, the council may, by resolution, renew said license only upon the condition that the licensee must reopen and restore the

licensed business to full operation within the terms of the renewed license. In the alternative, the licensee may make application for and obtain passage, approval and publication of a resolution for the transfer of said license within the term of the renewed license to another person.

i. No license issued upon condition pursuant to this subsection may be further renewed unless one (1) or the other of the above conditions has been fully met; provided, however, that the council may reissue a license for a business which has not been in full operation during the prior license year if the licensed premises were acquired by eminent domain or under the threat of eminent domain and the licensee has made a good faith attempt to relocate the business to another location.

(k) *Off-sale license location restrictions.* No license may be issued for any premises 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 liquor license to the property line of any school in the area for which the license is sought until the notice and approval provisions outlined under Saint Paul Legislative Code Section 310.02(2)(c) and (d) are followed. This prohibition does not apply to on-sale wine and culinary licenses issued under section 409.13, off-sale brewer licenses issued under Minn. Stat., § 340A.301, subdivision 6(d), brewer taproom licenses issued under section 409.24, a license issued to a private nonprofit college, or licenses issued or located within the Downtown Business District.

Any licenses in force and effect on November 10, 1962, the location of which license is in conflict with the provisions hereof, may be renewed, transferred or otherwise dealt with in accordance with law, it being the intent of this paragraph that it 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 will, in no manner be applicable to any hotel or motel.

(l) *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 must be conducted by the council. Any adverse action may be considered by the council pursuant to the hearing provisions of section 310.05.

(m) *Prohibited interests.* A holder of a license as a manufacturer, brewer or wholesaler may not have any interest or ownership, in whole or in part in a business holding a retail intoxicating liquor license or in the license so held, but a manufacturer or wholesaler of intoxicating or nonintoxicating liquor may use or have property rented for retail intoxicating liquor sales if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. This provision does not apply to off-sale/brew pub licenses, off-sale brewery licenses or small brewer off-sale 128 ounce licenses.

(n) *Prohibited interests: off-sale/brew pub, off sale brewery, small brewer off-sale 128 ounces.* A brewer holding an off-sale/brew pub, off-sale brewery or a small brewer off-sale 128 ounces license may hold or have an interest in other retail on-sale licenses but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer holding an off-sale/brew pub, off-sale brewery or a small brewer off-sale 128 ounces license may be an affiliate or subsidiary company of a brewery licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

- (1) Manufacture licensed under Minn. Stat. § 340A.301, Subd. 6, clause (d);
- (2) Manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or
- (3) Manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under Minn. Stat. § 340A.301, Subd. 6, clause (d), on January 1, 1995. Except as provided in Minn. Stat. § 340A.301, Subd. 7a, no brewer as defined in Minn. Stat. § 340A.304, Subd. 7a or importer may have any interest, in whole or in part, directly or indirectly in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

(o) *Interest.* For the purposes of paragraphs (m) and (n) of this section, 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, 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.

(p)

Nonconforming clubs; transition. The restrictions and requirements in sections 409.06(f), 409.06(k), and 409.08(11) of this chapter do not apply to licenses issued to a club under this chapter which at the time of application for an on-sale license held a private club license under former chapter 404 of this Code for the same premises for which a 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 neither enlarged nor transferred. Such licensed premises will be deemed a lawful nonconforming use under the zoning code.

(Ord 22-47, § 7, 11-9-22)