

Section 810 - Intoxicating Liquor

Section 810:00. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, are adopted and made a part of this ordinance as if set out in full.

Section 810.01. Definitions.

Subd 1. Licensed Premises. "Licensed Premises is the premises described in the approval license application. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Subd. 2. Liquor Service Manager. "Liquor Service Manager" is the person responsible for overseeing the daily operations of the establishment and for compliance with State and local laws

Subd. 3. Local Contact. "Local Contact" is the person(s) required to be on the premises of the establishment daily, who is familiar with daily operations, and who is available for contact by city officials and law enforcement in emergency and non-emergency situations.

Section 810:05. Licenses.

Subd. 1. License Required. No person, except wholesalers will directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance.

Subd. 2. On-Sale Licenses. "On-Sale licenses will be issued only to hotels, restaurants, including restaurants operated in the place of manufacture of a brewer licensed pursuant to Minn. Stat. §340A.301, subd. 1, exclusive liquor stores, and clubs, and will permit "on-sales" of liquor only. The number of licenses issued pursuant to this ordinance will be established from time to time by resolution of the City Council. The following classes of on-sale licenses will be used for the purposes of establishing license fees:

- Class A: Exclusive Liquor Store, On-Sale
- Class B: Hotels, On-Sale
- Class C: Restaurants, On-Sale
- Class D: Clubs, On-Sale

Subd. 3. Off-Sale Licenses. "Off-Sale" licenses will be issued only to exclusive liquor stores and drug stores; the number of licenses issued pursuant to this ordinance will be established from time to time by the City Council. The following classes of off-sale licenses will be used for the purpose of establishing license fees:

- Class E: Exclusive Liquor Stores, Off-Sale

Class F: Drug Stores, Off-Sale

Subd. 4. Sunday Sales. Notwithstanding the provisions of Section 810:35 of this ordinance, any hotel, restaurant, taproom or club as defined in this ordinance to which an on-sale license has been issued, and which has facilities for serving not less than 30 guests at one time, may serve intoxicating liquors between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays in conjunction with the serving of food. Such establishment will maintain an adequate staff, including a cook whose duties will include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant, hotel, taproom or club. It is unlawful for any such establishment, directly or indirectly, to sell or serve such intoxicating liquors without having first obtained a special Sunday license. The special Sunday license is subject to all the requirements imposed upon on-sale licenses by this ordinance and by State Statute. The following license class will be used for the purposes of establishing the license fee:

Class H: Special Sunday

Subd. 5. On-Sale Wine Licenses. "On-Sale Wine Licenses" will be issued for the sale of wine not exceeding 24 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. The holder of an on-sale wine license who is also licensed to sell on-sale 3.2 percent malt liquors may sell intoxicating malt liquors at on-sale without an additional license. Licenses under this section are not valid unless first approved by the Commissioner of Public Safety. The following license class will be used for the purposes of establishing the license fee:

Class I: On-Sale Wine.

Subd. 6. Temporary On-Sale Licenses.

- (a) A club or charitable, religious or other non-profit organization in existence for at least three years may apply for and be granted a temporary license for the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee. The license will be issued for not more than three consecutive days and may authorize sales on premises other than those owned by the licensee. Liquor service may be provided by the holder of the temporary on-sale intoxicating license or by contract with the holder of a full year on-sale intoxicating liquor license issued in the State of Minnesota.
- (b) Application for temporary on-sale licenses will be made on a form prescribed by the State of Minnesota and will not be subject to other criteria relating to application forms and procedures for licenses as set forth in Section 810:10, Subd. 1 of this Code.
- (c) All applications must be submitted to the City Clerk's office at least 60 days prior to the date of the event. The application will be provided by the City Clerk's office and will be accompanied by a non-refundable fee set forth in Section 511:00 of this Code,

and proof of financial responsibility as set forth in Section 810:10, Subd. 2 of this Code.

- (d) Upon review of the application, the City Council will approve or disapprove the license in its discretion. The following license class will be used for the purposes of establishing the license fee.

Class J: Temporary On-Sale.

Subd. 7. Sidewalk Cafes.

(a) Sidewalk Liquor Sales Allowed Within the Central Business District. Any restaurant within the Central Business District to which an on-sale liquor license has been issued and to which a permit has been issued under the provisions of Section 440:00 of this Code, may have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of 3.2 percent malt liquor or intoxicating liquors in such contiguous area that is not wholly within a completely enclosed building. The licensee must declare its intention to provide outdoor sales and service within the adjacent public right of way in its annual license application. The Paramount Theatre may offer liquor sales and service within the adjacent public right of way during programmed events without the requirement of meal or food service.

(b) Limitations on Sidewalk Liquor Sales. Sale of liquor within the public right of way is allowed subject to the following terms and conditions:

1. Time. Sales of liquor in sidewalk cafes are limited to the hours commencing at 10 a.m. and ending at 12 midnight. No licensee, nor the employee, nor the agent of any licensee, will serve, dispense, or in any manner furnish liquor in a sidewalk cafe at any other time; nor permit the presence of any open bottle or open receptacle containing liquor in the unenclosed area within thirty minutes after the expiration of the time of any day when liquor may be legally sold in the unenclosed area. No sales are permitted in the unenclosed area during these times and on these days if otherwise prohibited by the provisions of Section 810 of this Code.
2. Food Service Facilities. A restaurant offering sidewalk liquor sales must have facilities for serving not less than 30 guests at one time and must maintain an adequate staff, including a cook whose duties must include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant. Food service must be available at all times during which sidewalk liquor sales are offered.
3. Barriers. Where barriers defining the unenclosed liquor service area are provided at the discretion of the license holder, the service area may be defined by planters, walls, rope, stanchions, contrasting colored pavers installed with permission of the City of St. Cloud pursuant to Section 635:30, or decorative fences. Chain link fencing, snow fencing, and other forms of demarcation determined by City Administration to be inconsistent with the desired character of the Central Business District are prohibited.

4. Supervision. A Liquor Service Manager will be assigned at all times of operation the responsibilities of supervising the activities within the sidewalk liquor service area.
5. Waste Collection. Covered garbage receptacles must be provided within the liquor service area. No waste liquids, garbage, litter or refuse will be dumped or drained into sidewalks, streets, gutters, drains, public trash receptacles or any other place except those receptacles provided within the liquor service area or within the adjacent restaurant.
6. General Standards. Private furniture and facilities must be installed and maintained in compliance with all requirements of Section 635:30.
7. Insurance. Any establishment offering liquor service within the public right of way must file with the City Clerk evidence on insurance insuring against liability imposed by law arising out of the ownership, maintenance or operation of such liquor service. The certificate must state that all coverage afforded to the enclosed premise is extended to the outdoor service area. The certificate must further state that coverage may not be cancelled except upon ten days written notice filed with the City Clerk's Office. Sale of liquor within the public sidewalk must cease and facilities be removed at any time the required insurance is not in place.

(c) No Expectation of Renewal. Utilization of the sidewalk for outdoor sales and service must be deemed experimental and as such, no expectation must be had by the licensee that the outdoor area will continue to be allowed through annual licensing, even though no misconduct occurred within the outdoor area.

(d) Failure to Comply with Applicable Standards. Failure to comply with the provisions of Section 810:05, Subdivision 7 and any other applicable provision of local, State, or Federal law can result in forfeiture of the license holders' right to utilize the sidewalk for outdoor sales and service. Private facilities must be removed at the sole expense of the licensee upon order of the City of St. Cloud. Violations occurring within the public right of way can be subject to penalty against the principal on-sale license for the premises.

Subd. 8. Seasonal Outdoor Sales.

(a) Seasonal Outdoor Sales Allowed. The sale of intoxicating liquors pursuant to any of the licenses issued in accordance with Section 810 of the Code, will be limited to the sale and consumption inside of a structure on the licensed premises, unless the licensee declares its intention to provide for outdoor sale and service on the licensed premises in its annual license application.

(b) Limitations on Area Licensed for Seasonal Outdoor Sales. Seasonal outdoor liquor sales are allowed subject to the following terms and conditions.

1. Time. Sales of liquor in the licensed area is limited to the hours commencing at 10 a.m. and ending at 2:00 a.m. licensees, employees, and agents of any licensee, will not serve, dispense or in any manner furnish liquor in the licensed area at any other time; nor permit the presence of any open bottle or open receptacle containing liquor in the licensed area within 30 minutes after the expiration of the time of any day when liquor may be legally sold. Sales are not permitted in the licensed area during these times and on these days if otherwise prohibited by the provisions of Section 810 of this Code.
 2. Access. The primary access and egress will be from the main premise or structure and no other access or egress will be allowed other than those required as emergency exits.
 3. Free Passage Controlled. The outdoor sales area will be defined or structurally constructed so as to prohibit the free passage of any person or substance beyond said area.
 4. Supervision. A Liquor Service Manager will be assigned, at all times of operation, the responsibilities of supervision of the activities within the licensed area.
 5. No Live Entertainment. Live entertainment or the use of sound producing equipment is permitted when controlled in such a manner that it remains in compliance with noise control regulations set forth in this Code.
 6. Food Service The restaurant which is the holder of the on-sale license must have facilities for serving not less than 30 guests at one time and must maintain an adequate staff, including a cook whose duties must include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant.
 7. Insurance. Any establishment offering outdoor liquor service must file with the City Clerk evidence on insurance insuring against liability imposed by law arising out of the ownership, maintenance or operation of such liquor service. The certificate must state that all coverage afforded to the enclosed premise is extended to the outdoor service area. The certificate must further state that coverage may not be cancelled except upon ten days written notice filed with the City Clerk's Office. Sale of liquor within the outdoor service area must cease at any time the required insurance is not in place.
- (c) No Expectation of Renewal. Any action of the City allowing outdoor sales must be deemed experimental and as such, no expectation must be had by the licensee that the outdoor area will continue to be permitted through annual licensing, even though no misconduct occurred in the outdoor area.
- (d) Violations Impact Principal License. Any violations of the provisions of this ordinance allowing seasonal outdoors sales, or of the State law regulating the sales of liquors which occur in the licensed area, will be considered as violations of the principal on-sale license for the premises.

Subd. 9. Brewery/Taproom License

- (a) A Brewer licensed under Minn. Stat. §340A.301 may be issued an On-Sale Brewery Taproom License for the “on-sale” of malt liquor produced on the licensed premises, subject to the following conditions:
- 1) The on-sale of malt liquor may only be made during the days and hours that “on-sale” of liquor may be made, as prescribed by State Law or within this Chapter.
 - 2) A Brewer may only hold one (1) Brewery Taproom License within the City.
 - 3) The only beverage alcohol that may be sold or consumed on the premises of a licensed Brewery Taproom will be the malt liquor produced by the Brewer upon the Brewery Taproom premises.
 - 4) The holder of a Brewery Taproom License who also holds a Brew Pub off-sale license is permitted to sell Growlers, which is defined as a container with a capacity of up to 64 ounces, for the take-out or off-sale of craft beer. The Growler must be sealed by a paper or adhesive band strip or sleeve that is applied over the top of the closure in such a manner that the seal must be broken in order to open the container. The adhesive band, strip or sleeve shall bear the name and address of the brewer.
 - 5) Nothing in this subdivision precludes the holder of a Brewer Taproom License from also holding a license to operate a restaurant on the premises of the brewery.
- (b) A Brewery Taproom License may not be issued to a Brewer if the Brewer seeking the license, or any person having an economic interest in the Brewer seeking the license or exercising control over the Brewer seeking the license, is a Brewer that brews or produces more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually, as defined and prescribed by Minn. Stat. §340.301.

Subd. 10. Consumption and Display “Bottle Club” Permit

- (a) A permit issued under this subdivision authorizes the establishment to permit the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.
- (b) A permit may only be issued to the following establishments:
- 1) a restaurant;
 - 2) a hotel;
 - 3) an establishment licensed for the sale of 3.2 malt liquor;
 - 4) a club as defined in Minn. Stat. §340A.101, subd. 7, or an unincorporated club otherwise meeting that definition; and
 - 5) a bed and breakfast facility as defined in Minn. Stat. §340A.4011.

- (c) Establishments holding a Consumption and Display Permit are subject to the same terms and conditions as intoxicating liquor license holders and as provided by this ordinance and state law. These conditions include, but are not limited to, proof of financial responsibility and regular alcohol compliance checks.
- (d) It shall be unlawful for any licensee to permit any person under the age of twenty-one (21) to loiter or remain in any room where intoxicating liquor is being displayed or consumed, unless that person is accompanied by his/her parent or guardian, which parent or guardian is 21 years or older. The terms, conditions and exceptions outlined in Section 810:30 Subd. 15, Underage Presence in Licensed Premises, shall apply to holders of Consumption and Display Permits.
- (e) All managers and employee of an establishment holding a consumption and display permit must complete an alcohol service training program approved by the City Clerk.
- (f) An establishment holding a Consumption and Display Permit is subject to social host liability contained in Section 820 of this Code.

Subd. 11. Brew Pub Off-Sale Intoxicating

A Brew Pub Off-Sale Intoxicating Malt Liquor license may be issued to a brewer who holds a brewer license issued by the Minnesota Commissioner of Public Safety for the operation of a brewpub and shall be operated in and as a part of a restaurant establishment for which an on-sale intoxicating liquor license has been issued by the city.

- (a) An off-sale license may be issued solely for the malt liquor produced and packaged on the licensed premises and only upon approval of the license by the Minnesota Commissioner of Public Safety.
- (b) Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores and must be removed from the licensed premises before the applicable off-sale closing time requirements.
- (c) Only malt liquor may be brewed or manufactured at the licensed premises and not more than 3,500 barrels of malt liquor in a calendar year may be brewed or manufactured at the licensed premises.
- (d) The malt liquor sold off-sale shall be packaged in 64-ounce containers commonly known as "growlers" and shall have the following requirements for packaging:
 - i. The containers shall bear a twist type closure, cork, stopper, or plug.
 - ii. At the time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the twist type closure, cork, stopper or plug forming a seal that must be broken upon opening of the

container.

iii. The adhesive band, strip or sleeve shall bear the name and address of the brewer/licensee selling the malt liquor.

iv. The containers shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer/licensee selling the malt liquor, and the contents in the container packaged as required herein shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100.

Class O: Brew Pub Off-Sale Intoxicating

Subd. 12. Small Brewer Off-Sale Intoxicating

A "Small Brewer Off-Sale Intoxicating" license authorizes a micro-brewery that manufactures less than 150,000 barrels of malt liquor per year to sell malt liquor to the public in 64-ounce containers, commonly known as "growlers," or in 750 milliliter bottles as permitted by Minn. Stat. §340A.301. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually; off-sale shall be limited to the legal hours for off-sale at exclusive liquor stores, and the off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.

- (a) The malt liquor shall be packed in 64-ounce containers commonly known as "growlers" or in 750 milliliter bottles. The containers or bottles shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100.
- (b) A brewer may, but is not required to, refill any growler with malt liquor for off-sale at the request of a customer. A brewer refilling a growler must do so at its licensed premises and the growler must be filled at the tap at the time of sale. A growler refilled under this paragraph must be sealed and labeled in the manner described in paragraph (a).
- (c) A brewer may only have one license under this subdivision.
- (d) The City may not issue a license under this subdivision to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 150,000 barrels of its own brands of malt liquor annually or a winery that produces

more than 250,000 gallons of wine annually.

Class P: Small Brewer Off-Sale Intoxicating

Subd. 13. Sunday Growler Off-Sale Intoxicating

Authorizes a small brewer that manufactures less than 150,000 barrels of malt liquor per year to sell malt liquor to the public in 64-ounce containers, commonly known as “growlers,” or in 750 milliliter bottles as permitted by Minn. Stat. §340A.301, on Sundays between the hours of 8:00 a.m. and 10:00 p.m.

Class Q: Sunday Growler Off-Sale Intoxicating

Subd. 14. Small Brewer off-sale 128 Ounce Intoxicating

“Small Brewer off-sale 128 Ounce” license allows a brewer licensed under Minn. Stat. § 340A.301 that produces 7,500 barrels or less of malt liquor annually to be issued a license by a municipality for off-sale of up to 128 ounces per customer per day in any packaging conforming to state and federal regulation.

- (a) Breweries that exceed 7,500 barrels annually do not qualify for this license.
- (b) 128 Ounce Brewer off-sale malt liquor licenses may also be issued, with approval of the commissioner, to a holder of a brewer’s license under Minn. Stat. § 340A.301, Subd. 6(c), (i) or (j) and meeting the criteria established by Minn. Stat. § 340A.29 as may be amended from time to time.
- (c) The amount of malt liquor sold at off-sale under this license may not exceed 128 ounces per customer per day.
- (d) The malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.
- (e) Sales shall be limited to the hours as described in Minn. Stat. § 340A.504 Subd. 4.
- (f) Packaging of malt liquor for off-sale under this license must comply with the provisions of Minnesota Rules, parts 7515.1080 to 7515.1120.

Class R: Small Brewer off-sale 128 Ounce Intoxicating

Subd. 15. Microdistillery Cocktail Room

A microdistillery cocktail room license may be issued to the holder of a microdistillery license or distilled spirits manufacturer license issued under Minn. Stat. § 340A.22.

- (a) A microdistillery or distilled spirits manufacturer cocktail room license authorizes the

on-sale of distilled liquor produced by the distiller for consumption on the premises. A microdistillery or distilled spirits manufacturer may not operate a cocktail room or conduct sales at off-sale unless at least 50 percent of the annual production of the licensee is processed and distilled on premises.

- i. For purposes of calculating the annual production, distilled spirits that are bottled by the licensee under a contract bottling agreement with a third party are excluded from the licensee's annual production if the:
 1. Third-party contractor is an independent entity that is not owned or controlled by the licensee;
 2. Distilled spirits bottled under a third-party contract are not available for sale or marketed by the licensee or third party at any location licensed under a cocktail room license or off-sale license; and
- (b) Distilled spirits bottled under a third-party contract are available for distribution by wholesalers. No single entity may hold both a distillery cocktail room and taproom license, and a cocktail room and taproom may not be collocated.
- (c) Nothing in this section precludes the holder of a microdistillery or distilled spirits manufacturer cocktail room license from also holding a license to operate a restaurant at the distillery.
- (d) Hours of Operation will conform to Section 810:35 of this ordinance.

Class S: Microdistillery Cocktail room license

Subd. 16. Microdistillery Off-Sale

A microdistillery may be issued a license for off-sale of distilled spirits, with the approval of the commissioner. The license may allow the sale of up to a total of 750 milliliters per customer per day of product manufactured on site, in any size container or combination of containers approved under Minn. Stat. § 340A.22, Subd. 4(b).

- (a) Off-sale hours of sale must conform to hours of sale for retail off-sale licensees pursuant to Section 810:35 of this ordinance. No brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

Class T: Microdistilleries Off-Sale.

Section 810:10. Application for License.

Subd. 1. Forms and Procedure.

- (a) Forms. Any person desiring to sell intoxicating liquors under licenses as defined will make application in writing providing an original and four copies to the City Clerk. The application will be on a form provided by the City Clerk, and will include the form prescribed by the State Liquor Control Commissioner, will state the category of on-sale license applied for (hotel, restaurant, exclusive liquor store, or club), and will state the name of the applicant, his age, representations as to character, with such references as the Council may require, citizenship, the type of license applied for (on-sale, off-sale, special May Bowle, Sunday sales, temporary on-sale, on-sale wine) the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long the business has been at that place, and such other information as the Council may require. The application will be verified, and any person who willfully makes any false statement in an application for a license, or who willfully deceives, or attempt to deceive, the Council or any City official by any statement or answer made in connection with an investigation, will be in violation of the provisions of the ordinance.
- (b) Whenever the application for an on-sale license to sell intoxicating liquor is for premises on which new construction or the alteration of existing structures is to occur, the application will be accompanied by a set of preliminary plans showing the interior and exterior design, including site and space allocation and utilization.
- (c) The applicant will submit with the completed application form an executed release of information authorizing the Chief of Police to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state.
- (d) The applicant will also submit any additional information as may be required by the Planning Director, Health Department, Police Chief, and City Attorney. Each applicant for an initial on or off-sale liquor license, a license renewal, or an applicant for a transfer of these licenses will authorize, by signed statement, the City to request from the Minnesota Commissioner of Revenue a tax clearance certificate pursuant to M.S. Section 290.612 and 297A.431. The City Clerk will then request the certificate from the Commissioner, which will disclose and make public to the City, amounts of State tax delinquencies and instances of non-filing of tax returns. The Commissioner will not disclose to the City any amounts of tax liability where there is an administrative or court action questioning the amount or the validity of the liability or where the taxpayer's appeal period has not expired.
- (e) Review Procedure.
 - 1. Upon the filing of an application for a license, together with the documents required to accompany the license, the City Clerk will immediately deliver the application to the Mayor. The City Clerk will forward a copy of the application and accompanying documents to the Planning Director, Health Department, Police Chief, and City Attorney.

2. The Planning Director will review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.
3. The Police Chief will make or cause to be made a review of the application to determine the potential impact of law enforcement. The Police Chief will also make or cause to be made an investigation of the applicant's character and criminal history.
4. The Health Department will review all license applications where service of food is a requirement of the license. The Health Department will confirm that all persons applying for a license where service of food is a requirement are in fact a locally licensed food establishment. The Health Department will also confirm that the premises for which the license is to be issued meets all other requirements of this chapter and State Statute relating to the handling and service of food and the designation as a restaurant, hotel, or club.
5. The City Attorney will review the application for compliance with all applicable statutes and ordinances.
6. Within 60 days of receipt of the application, the Police Chief, Planning Director, Health Department, and City Attorney will submit in writing to the Clerk their respective findings and recommendations. The Clerk will immediately submit the application, including preliminary plans, if any, to the Mayor with the reports and recommendations of the Police Chief, the Planning Director, the Health Department, and the City Attorney in respect to the granting or denying of the application. The Mayor will immediately submit the application and preliminary plans, if any, to the City Council.

(f) Review and Investigation Fee. At the time of each original application for a license or at the time of any application for the transfer of an existing license, the applicant will pay in full a review and investigation fee. If the review and investigation is conducted solely within the State of Minnesota, the fee will be as set forth in Section 510 of this Code.

Should the City Council find that an investigation is required outside the State of Minnesota, the fee will be that established for the same class of in-State review and investigation in addition to which will be added actual costs of review and investigation exceeding the in-State fee. For investigations outside of the State of Minnesota, the portion of the fee determined by the in-State schedule will be paid at the time of the original application; any fee due in excess of that amount must be paid prior to the license hearing and before the City Council considers the application.

Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

The Review and investigation fee will not be refunded.

Subd. 2. Proof of Financial Responsibility. At the time of filing of the application for a license under this ordinance, proof of financial responsibility with regard to liability imposed by Minnesota Statutes §340A.409 must be furnished to the municipality. The municipality must submit to the Commissioner of Public Safety the applicant's proof of financial responsibility prior to the license being granted. Proof of financial responsibility will be provided as follows:

- (a) A certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence; \$50,000 for other pecuniary loss of any one person in any one occurrence; and \$100,000 for other pecuniary loss of two or more persons in any one occurrence; or
- (b) A bond of a surety company with minimum coverages as provided in clause (1); or
- (c) A certificate of the Commissioner of Management and Budget that the licensee has deposited with the State Treasurer Commissioner of Management and Budget \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

Proof of financial responsibility will not apply to licensees who by affidavit establish that (a) they are on-sale 3-2 malt liquor licensees with sales of less than \$25,000 of 3-2 malt liquor for the preceding year; (b) they are off-sale 3-2 malt liquor licensees with sales of less than \$50,000 of 3-2 malt liquor for the preceding year; or (c) they are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year.

Subd. 3. Approval of Security. Surety bonds and liability insurance policies will be approved as to form by the City Attorney. The filing of the above described security for license is deemed sufficient for the purpose of the issuance of a "Special License for Sunday Liquor Sales", provided the terms of such security are amended to include the periods during which such licensee is operating under a "Special License for Sunday Liquor Sales".

Subd. 4. License Fees. Each application for a license will be accompanied by a receipt from the City Clerk showing payment in full of the annual fee.

Subd. 5. Date of Expiration. All licenses will expire on the last day of June of each year. Any person desiring a license for the succeeding year will make application not later than the first day of June preceding the expiration of the current license.

Section 810:12. Contents of Application. In addition to the information which may be required by the State Liquor Control Commissioner's form, the application will contain the information set forth in the subdivisions which follow.

Subd. 1. True name, place, and date of birth, and street residence address of applicant.

Subd. 2. Whether applicant is married or single. If married, true name, place and date of birth, and street residence address of applicant's spouse.

Subd. 3. Whether applicant and spouse are registered voters of St. Cloud.

Subd. 4. Street addresses at which applicant has been living during the preceding 10 years.

Subd. 5. Kind, name and location of every business or occupation applicant has been engaged in during the preceding 10 years.

Subd. 6. Names and addresses of applicant's employers for the preceding 10 years.

Subd. 7. Whether or not applicant has ever been convicted of any felony, crime, or ordinance violation. If so, when, where and for what such convictions were had.

Subd. 8. Whether applicant has ever been engaged as an employee in operation of a saloon, cafe or other business of similar nature. If so, when, where and for how long.

Subd. 9. Whether applicant is a natural person, corporation, partnership, or unincorporated association.

Subd. 10. If applicant is other than a natural person, the name of the manager or proprietor of the premises to be licensed, giving all the information about the manager or proprietor as is required about the applicant by Subd. 2 above.

Subd. 11. If applicant is other than a natural person, the names of all the members or owners thereof, giving all the information about the members or owners as is required about the applicant by Subd. 2 above. This Subd. 11, however, will not apply to a hotel applying for an "On-Sale" license to be owned and operated by it.

Subd. 12. The floor number, street number, and square footage of rooms where the sale or consumption of liquor is to be conducted, and if to be conducted in a hotel or restaurant, the number of dining rooms, square footage, open to the public where meals are regularly served to guests. The applicant will include a diagram drawn to scale (scale must be indicated on diagram) on size 8½" by 11" graph paper showing the gross area of rooms where sales or consumption of liquor is to be conducted. Calculations of gross areas will be made without further exclusion as to location of bars, coolers, restrooms, etc. Each floor will be shown on a separate diagram.

Subd. 13. Names and addresses of the owner and any lessees of the land upon which is located the building which houses the premises to be licensed.

Subd. 14. Names and addresses of all owners, lessees, mortgagors or vendors of fixtures or furniture used or to be used in the premises to be licensed.

Subd. 15. Name and address of every person who will have charge, management or control of the place licensed.

Subd. 16. If applicant is a corporation, partnership, unincorporated association, or club, the name and general purpose of such corporation, partnership, unincorporated association, or club, and the names and street addresses of all officers. In addition, corporations will file with the application two certified copies of the by-laws, articles of incorporation, and minutes of the meeting setting forth the officers of the corporation.

Subd. 17. If applicant is a corporation, the state of incorporation, and a complete list of all stockholders with number of shares owned by each. This subdivision 18, however, will not apply to a hotel applying for an "On-Sale" license to be owned and operated by it.

Subd. 18. If the applicant is a partnership, the names and addresses of all partners.

Subd. 19. If a permit from the Federal government is required by the laws of the United States, whether or not such permit has been issued and, if so, in what name.

Subd. 20. Exact legal description of the premises to be licensed.

Subd. 21. Whether or not all real estate and personal property taxes for the premises to be licensed have been paid, and if not paid, the years for which delinquent.

Subd. 22. Where an applicant is a party to a civil action/ pursuant to Minn. Stat. § 340A.801 the applicant will include a copy of the summons and complaint with the license application.

Subd. 23. Other information as the City Council may require.

Section 810:15. Granting of Licenses.

Subd. 1. Council Investigation, Hearing. The Council will investigate all facts set out in the application and will hold a public hearing before granting the license. A notice of the filing of the application will be published in the legal newspaper at least one week before the public hearing, giving the name of the applicant, the location of the premises, and the time and place when the application will be considered. Opportunity will be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council will grant or refuse the application in its discretion. No "Off-Sale" license will become effective until it, together with the bond furnished by the applicant, has been approved by the Commissioner of Public Safety. After approval, the City Clerk will immediately issue the license.

Subd. 2. Information to Commissioner of Public Safety. The City Clerk will, within ten

days after the issuance of any "On-Sale" license under this ordinance, submit to the Commissioner the full name and address of each person granted a license, the trade name, if any, the effective license date, and the date of expiration of the license. He will also submit to the Commissioner any change of address, transfer, cancellation, or revocation of any "On-Sale" or "Off-Sale" license by the Council during the license period.

Subd. 3. License Restrictions; Transfers. Each license will be issued to the applicant only. Each license will be issued for only the compact and contiguous space specified in the application or shown on the final plans pursuant to Section 810:16. A license may not be transferred to another person or place without City Council approval. Any person desiring to transfer a license from one location to another will make application not less than two weeks prior to the regular Council meeting at which the application will be considered. Changes in corporate directors and officers must be reported within 30 days to the City Clerk. Any transfer of stock of a corporate licensee which constitutes a transfer of more than ten percent (10%) of that corporation's outstanding stock is deemed a transfer of the license. No such transfer may be made without prior Council approval.

Section 810:16. Issuance of License.

Subd. 1. Final Plans Reviewed. Where an on-sale license to sell intoxicating liquor is granted for premises on which new construction or alteration of existing structures is to occur, the applicant will submit a set of detailed final plans showing interior and exterior design, including site and space. These plans will be certified by a registered architect or engineer. The Council will review the plans for compliance with the preliminary plans included in the original application, as required by Section 810:10, subd. 1(a).

Subd. 2. Certificate of Occupancy Required. For premises on which new construction or alteration of existing structures is to occur no license to sell intoxicating liquor will be issued until a certificate of occupancy is issued by the City for premises constructed in accordance with the application and plans reviewed by the Council. Prior to issuance of the certificate of occupancy, the Chief Building Official will certify to the Clerk that construction was or was not in accordance with the final plan reviewed by the City Council. Where the construction is found not to be in accordance with the final plan, the Chief Building Official will state all significant deviations.

Subd. 3. Council To Review Deviations. Where the certification to the Clerk indicates that construction was not in accordance with the final plans, the Clerk will not issue the license but will return the application together with the final plans and statement of deviations to the City Council for further action.

Section 810:20. Persons Ineligible For License.

Subd. 1. A license will not be granted to or held by any person included in the subdivisions which follow.

Subd. 2. Age. Under 21 years of age.

Subd. 3. Good Character. A person who is not of good moral character or repute.

Subd. 4. A Citizen or Resident Alien, Non-Resident. A person who is not a citizen of the United States, or an alien admitted for permanent residence, or who has otherwise obtained a work authorization from the U.S. immigration and naturalization services.

Subd. 5. Convicted of a Crime. A person who, within five years prior to the application of such license, has been convicted of any willful violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor.

Subd. 6. No Other Establishment. A person who already has a direct or indirect interest in three on-sale intoxicating establishments or one off-sale intoxicating establishment in the municipality to which a license of the same class has been issued under this ordinance. An applicant for an initial license under this section is eligible for only one license during the first year of operation. For purposes of this sub-division, a year of operation will consist of at least twelve consecutive months of actual business operation. The term "interest" includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor 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 establishments; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or ten percent or less interest in any other corporation holding a license.

Subd. 7. Not The Proprietor. Who is not the proprietor of the establishment for which the license is issued.

Subd. 8. Spouse. Whose spouse has a financial interest in any "On Sale" or "Off Sale" intoxicating liquor establishment or whose spouse has had a liquor license revoked within five years prior to the date of application.

Subd. 9. Corporations. In the case of a corporation, the manager or person in charge will be subject to all of the above qualifications, and the corporation itself will be subject to subdivisions 4, 5, 6 and 7.

Subd. 10. Limitation on Ownership Interest by Brewer. A brewer may not be granted an on-sale license unless the brewer's ownership interest in any other manufacturer, brewer, importer or wholesaler of intoxicating malt liquor meets the requirements of Minn. Stat. §340A.301, subd. 7(a)

Section 810:25. Places Ineligible For Licenses.

Subd. 1. A license will not be granted for places included in the following subdivisions unless otherwise expressly permitted in this section.

Subd. 2. Payment of Taxes, Etc. Any premises on which assessments or other financial claims of the City or State are due, delinquent, or unpaid. The City may waive strict compliance with this provision where an action has been commenced pursuant to the provisions of Minnesota Statutes, questioning the amount or validity of any assessment, tax, or other financial claim. The City may issue a conditional license where the applicant or transferor has entered into a payment agreement with the Revenue Department or the City to satisfy the liability in question. However, if the terms of said payment agreement are not satisfied, the City will revoke the conditional license and the application or transferor will waive any right to a hearing pursuant to M.S. 340.304.

Subd. 3. Distance From St. Cloud State University. Any place within 1,500 feet of the St. Cloud State University as measured on a direct line from the nearest corner of the administration building of the university to the main entrance of the premises proposed for licensing.

Subd. 4. Restriction On Property Owners. Any premises owned by a person to whom a license may not be granted under this ordinance, except an owner who is a minor, alien, or a person who has been convicted of a crime other than the violation of Extra Session Laws 1934, Chapter 46.

Subd. 5. License of Another Class. Any place, except an exclusive liquor store, for which a license of another class has been granted under this ordinance.

Subd. 6. Off Sale Only. Any place where non-intoxicating malt liquor is sold "On Sale". This subsection will not apply to an "On Sale Intoxicating Liquor License".

Section 810:30. Conditions of License.

Subd. 1. Every license will be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the City or State law.

Subd. 2. License Posted. The license will be posted in a conspicuous place on the licensed premises at all times.

Subd. 3. Licensee Responsible For Conduct. Every licensee will be responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell or serve intoxicating liquor will be deemed the act of the licensee as well, and the licensee will be liable to all penalties provided by this ordinance equally with the employee.

Subd. 4. Space Named. A license will not be effective beyond the compact and contiguous space specified in the license for which it was granted. The diagram submitted with the application pursuant to Section 810:12, subd. 12, or the final plans submitted pursuant to Section 810:16, will become part of the license and will show the compact and contiguous space specified. All space specified will include the gross area of each room where sales or consumption of liquor is to be conducted without further exclusion (as to location of bars, coolers, restrooms, etc.).

Subd. 5. Employing Minors. Persons under 18 years of age may not serve or sell intoxicating liquor in a licensed intoxicating liquor establishment.

Subd. 6. Slot Machines and Gambling Devices. Licensees will not keep, possess, or operate or permit the keeping, possession, or operation of slot machines, or a gambling device or apparatus on the licensed premises or in any room adjoining the licensed premises under the licensee's control. However, gambling devices may be kept or operated and raffles conducted on licensed premises of any room adjoining the licensed premises under his control where the gambling device or raffle is licensed as provided pursuant to the laws of the State of Minnesota. This subdivision does not apply to dice kept or used on the premises for the purposes permitted under Minnesota Statutes Sections 340A.410, Subd. 5 and 609.761, Subd. 4.

Subd. 7. Owner of Equipment. Equipment or fixtures in any licensed place will not be owned in whole or in part by any wholesaler, manufacturer, or distiller of intoxicating liquor.

Subd. 8. City Officials Right to Enter. Any police officer, health officer, or properly designated officer of the City will have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search warrant and any police officer will have the right to seize all gambling devices found on the licensed premises.

Subd. 9. Restriction On Display. On-sale liquor establishments will not display liquor while open to the public during the hours when the sale of liquor is prohibited by this ordinance. During all hours when the sale of liquor is prohibited by this ordinance, all bar areas and liquor storage areas will be closed and locked, and all persons, except the licensee, employees and law enforcing officers, will be excluded.

Subd. 10. Ethyl Alcohol Or Neutral Spirits. Licensees will not keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises either alone or mixed with any other beverage.

Subd. 11. Lewd Or Indecent Conduct Prohibited. Lewd or indecent conduct will not be allowed or permitted on the licensed premises. Lewd or indecent conduct will include "nudity" and "sexual conduct" as those terms are defined in M.S. 617.292.

Subd. 12. Live Entertainment and Dancing. Any licensee desiring to provide live entertainment or allow public dancing must conduct that activity entirely within the licensed premise as that term is defined in Section 810:00 of this ordinance. Class A, B or C

licensees conducting over 12 dance events during the licensing period must pay an additional fee as prescribed in Section 511 of this Code.

Subd. 13. Local Contact Required to be on Premises. A designated Local Contact will be present on the licensed premises. At the time of the application for a license, the applicant will designate a maximum of three individuals as Local Contacts of the licensed premises. The applicant will provide the same information in respect to designated Local Contacts as is required of the applicant under Section 810:12, Subds. 1 through 8. No other persons may be designated as a Local Contact without the prior approval of the City Council. Each designated Local Contact will be subject to the requirements of Section 810:20.

Subd. 14. Promoting Responsible Consumption. Between the hours of 9:00 p.m. and 2:00 a.m., no licensee or employee or agent of a licensee will:

- (a) Sell, offer to sell or deliver to any person multiple drinks containing intoxicating liquor or 3.2 percent malt liquor for a single price, except at private functions not open to the public.
- (b) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price charged for such drink.

Subd. 15. Underage Presence in Licensed Premises.

- (a) Social Host Responsibility: It shall be unlawful for any licensee to permit any person under the age of twenty-one (21) to loiter or remain in any room where intoxicating liquor is being sold or served, unless that person is accompanied by his/her parent or guardian, which parent or guardian is 21 years or older.
- (b) It shall be unlawful for any person under the age of twenty-one to loiter in any room where intoxicating liquor is being sold or served, unless that person is accompanied by his/her parent or guardian, which parent or guardian is 21 years or older.
- (c) Underage Social Event Permit: Upon application of any licensee, the City Clerk may, upon recommendation from the Chief of Police, issue an underage social event permit. Any application must be received at least 7 days in advance of the planned event and may be granted upon such terms and conditions as the City Clerk may specify. Specific terms and conditions may include the requirement to hire additional security staff and/or uniformed police officers, the cost of which will be borne solely by the licensed establishment. The licensee must include with its application for permit an operational plan. The plan must address the following items:
 - 1) beginning and ending date of the permit, (not to exceed 2 days);
 - 2) provide for a physical separation between that portion of the establishment designated for alcohol service and that portion of the establishment hosting the underage social event. The physical separation must consist of a wall or other durable physical separation that effectively prevents the passing or movement of alcohol into that portion of the establishment hosting the underage event;
 - 3) a conspicuous sign or posting informing the public of the designated alcohol and non-alcohol areas;
 - 4) proactive security measures to prevent the transfer to, possession or

consumption of alcohol in the non-alcohol portion of the establishment and prevent underage persons from entering the alcohol serving area.

- (d) Private Party: Nothing in this subdivision shall prohibit attendance by persons under the age of twenty-one (21) at private parties where alcoholic beverages are sold and/or served. A “private party” for purposes of this subdivision shall mean an event held in licensed premises that is not open to the public and attendance is limited to a discreet and identifiable group of persons invited by a host. A “host” for purposes of this subdivision is a person, at least 21 years of age, who has rented a specific portion or all of the licensed premises, and who is financially responsible for the rental of the premises. The general public may not be allowed into or invited to the party. The license holder shall remain responsible for and shall take proactive and appropriate measures to insure that all applicable laws pertaining to the consumption of alcoholic beverages are followed.
- (e) Exceptions: Nothing in this section shall prohibit a person 18, 19, or 20 years old from entering a licensed establishment to:
- 1) Perform work for the establishment including the serving of alcoholic beverages, unless prohibited by Minnesota State Statute;
 - 2) Consume meals served in a defined dining area; and
 - 3) Attend social functions that are held in a portion of the establishment where alcoholic beverages are not served or sold.
- (f) Theatre/Athletic Event Exception: This subdivision is not intended to prohibit or restrict theatre, music, sports or entertainment events where the service of alcohol is incidental to the entertainment and where the primary source of revenue for the licensed establishment is from the sale of tickets for the entertainment and not from the sale of alcoholic beverages. If alcohol is served at such an event, the license holder is required to verify age and identity at the point of sale before alcohol is sold or provided. A licensee eligible for the theatre/athletic event exception may apply for a one (1) year permit pursuant to the requirements of subdivision 15, paragraph c.

Subd. 16. Persons who have not been trained under a training program approved by the City Clerk for the current licensing year may not serve or sell intoxicating liquor in a licensed intoxicating liquor establishment. An exception is made for persons currently participating in a training program when they are under the direct supervision and accompanied by a person who is already certified as trained. The license holder must maintain a list on the licensed premises of those persons who have been trained as required by this subdivision together with the date that training was completed. The list must be certified by the license holder and in the case of a corporation or club, an officer of that entity. The list will immediately be made available upon the request of a law enforcement officer or other city official.

Subd. 17. Multiple Bars.

A license shall be considered to have established multiple bars when:

1. More than one permanent bar regularly open to the public exists on the licensed premises; and
2. The permanent bars are located in the areas of the premises separated by permanent walls, or are located on different floors of the license premises.

For the purposes of this section, when portions of a single permanent bar are located in separate areas of the premises divided by a permanent wall, this shall be considered as more than one bar if the rooms each have a separate entrance to the license premises from outside of the license premises.

Class A, B or C licensees must pay an additional fee for multiple bars are prescribed in Section 511 of this Code.

Section 810:35. Time When Sales Are Prohibited.

Subd. 1. No intoxicating liquor will be sold during the hours as prohibited in the subdivisions which follow.

Subd. 2. "On Sales". "On Sales" may not be made:

- (a) Between 2:00 a.m. and 8:00 a.m. of any day.
- (b) Between 2:00 a.m. on Sunday and 8:00 a.m. on Monday, unless the licensee will have obtained a Class H Special Sunday license pursuant to this ordinance, in which case sales may be made on Sundays between the hours of 8:00 a.m. and 2:00 a.m in conjunction with the serving of food.

Subd. 3. "Off Sales". "Off Sales" may not be made:

- (a) After 10:00 p.m. and before 8:00 a.m. on any day except as provided herein;
- (b) On Sunday, except between the hours of 11:00 a.m. and 6:00 p.m. or unless the licensee has obtained a Class Q Sunday Growler Off Sale License.
- (c) Thanksgiving Day or Christmas Day; however, on the evening preceding these holidays, "Off Sales" may be made until 10:00 p.m., except the day before Christmas, December 24, no sales will be made after 8:00 p.m.

Subd. 4. Time When Sales Are Prohibited. Licensees employees, and agents of any licensee, will not serve, dispense or in any manner furnish intoxicating liquor; nor permit the consumption of any intoxicating liquor; nor permit the presence of any open bottle or open receptacle containing intoxicating liquor on the licensed premises on Sunday between 2:30 a.m. and 8:00 a.m., nor between the hours of 2:30 a.m. and 8:00 a.m. on any weekday Monday through Saturday inclusive.

Section 810:40. Closing of Bar and Restricting Other Business Operated In Connection Therewith.

Subd. 1. The word "bar", as used in this section means the room or rooms in which a licensee under an "On Sale" liquor license customarily prepares, or pours intoxicating drinks.

Subd. 2. All persons, except the licensee, employees and law enforcement officers, will be excluded from the bar within 30 minutes after the expiration of the time of any day when intoxicating liquor may be legally sold, and all doors into the bar will then be closed and locked.

Subd. 3. If the licensee is operating any other lawful business in the building in which the bar is located, no intoxicating liquor will be served or permitted to be consumed on the premises where such other business is conducted during the time when the bar is closed.

Section 810:45. Merchandise Sales In "Off-Sale" Stores. No cigars, cigarettes, tobacco, or non-intoxicating malt beverages, or soft drinks will be sold in any exclusive "Off Sale" liquor store during the hours when the sale of intoxicating liquor is prohibited in the store.

Section 810:50. Physical Facilities.

Subd. 1. Partitions Or Screens. There will be no partition, box, stall, screen, curtain, or other device which will obstruct a view of any part of the room, except that partition, subdivision, or panel not higher than 48 inches from the floor may be maintained.

Subd. 2. Toilet Facilities. Every "On Sale" licensee will maintain upon the licensed premises public toilets conveniently located and of easy access for the accommodation of his customers. The toilets will conform to the City's building code and will be maintained at all times in conformation with municipal ordinances and state laws. Separate toilets will be provided for each sex and will be properly designated.

Section 810:55. Clubs. Licensed clubs will not sell liquor except to members and to guests in the company of members.

Section 810:60. Restrictions On Purchase Of Licenses.

Subd. 1. Mix Or Prepare Liquor. No person will mix or prepare liquor for consumption in any public place of business not licensed to sell liquor "On Sale" and no person will consume liquor in any such place except as permitted by this ordinance.

Subd. 2. Samples Authorized. Off-sale licenses and municipal liquor stores may provide samples of malt liquor, wine, liqueurs, cordials, and distilled spirits which the licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, cordial, and distilled spirits samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer, 25 milliliters of liqueur

or cordial, and 15 milliliters of distilled spirits per variety per customer.

Subd 3. Catering of Liquor. Only those establishments holding an on-sale intoxicating liquor license issued by the City of St. Cloud along with a Liquor Caterer's Permit issued in accordance with Minnesota Statutes 340A.404 Subd. 12 shall be eligible to cater liquor in the City of St. Cloud.

Section 810:65. Suspension Or Revocation Of Licenses; Civil Penalty.

Subd. 1. The Council will follow the provisions of this section of the ordinance on the suspension, revocation or imposition of a civil penalty against any license granted under this ordinance.

Subd. 2. Notice Of Violation. The Chief of Police will report, in writing, any violation of the provisions of this section or Minnesota Statutes Chapter 340A committed in the operation of the licensee's business to the City Attorney's Office, giving all facts and circumstances known. If the City Attorney's Office determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that the violation may warrant a suspension or revocation of the licenses held by the licensee, it will fix a time and place for a hearing sufficiently in advance to enable ten days written notice of the time, place and purpose of such hearing. The City Attorney's Office will then report to the Council at its next regularly scheduled meeting that a hearing has been scheduled on an alleged violation at the licensed premises.

Subd.3 Hearing On Alleged Violations. The hearing will be held before an independent hearing examiner. At the time of the hearing, the licensee may appear and present any evidence which is material to the investigation. The hearing officer will make a finding of facts as to whether a violation of the provisions of this section or Minnesota Statutes Chapter 340A has been committed in the operation of the licensee's business, whether the violation was willful in nature. The hearing officer will also make a recommendation of what penalty, if any, will be applied. The City Council will adopt the hearing officer's findings of fact that the licensee is guilty of a violation of any of the provisions of this ordinance or State law, other than one which calls for a mandatory revocation, and may impose a civil penalty of up to \$2,000 for each violation, suspend the license for up to 60 days, revoke the license, or impose any combination of these sanctions, subject to the provisions of the presumptive penalties set forth in Section 810:70. In the event of suspension, the Council will also suspend any licenses held by the licensee under the 3.2 percent malt liquor ordinance, and in the event of a revocation, the Council will also revoke any licenses held by the licensee under the 3.2 percent malt liquor ordinance. The licensee will be given notice in writing of any such action by the City Attorney's Office. No 3.2 percent malt liquor license or intoxicating liquor license will be renewed or reissued to any licensee who has not paid to the City the full amount of any civil penalty previously imposed by the City against the licensee under this section.

Subd. 4. Mandatory Revocation. The Council will revoke the license or licenses of any licensee under this ordinance if the licensee willfully violates any provisions of the Minnesota Statutes, Chapter 340A.

Section 810:70. Penalties for Violations.

Subd. 1. Penalties. Upon a finding by the City Council that a violation of an offense designated in Subdivision 2 of this Section has occurred, the Council will, at a minimum, apply the following adverse penalties:

- 1) For a first violation within a 24 month time period..... a \$750.00 civil penalty.
- 2) For a second violation within a 24 month time period. a \$1,500.00 civil penalty.
- 3) For a third violation within a 24 month time period..... a suspension or revocation of license. A liquor establishment that has its liquor license revoked under this Section becomes eligible only for a provisional liquor license subject to the terms and conditions outlined in Section 810:75 of this Chapter and subject to approval by the City Clerk. The City will notify the establishment's insurance company of the license suspension or revocation.

Subd. 2. Violations Enumerated.

- a. Violation of Minnesota Statute §340A.502: To sell, serve or furnish alcohol to an obviously intoxicated person.
- b. Violation of Minnesota Statute §340A.503: To sell, serve or furnish alcohol to persons under the age of 21.
- c. Section 810:30 – Violations of Conditions of License:
 - Subd. 5: prohibiting employing minors to serve alcohol
 - Subd. 9: restrictions on the display of alcohol
 - Subd. 10: prohibition on ethyl alcohol and neutral spirits
 - Subd. 11: lewd or indecent conduct prohibited
 - Subd. 14: promoting responsible consumption
 - Subd. 15: underage presence in licensed premises
- d. Section 810:35: To sell, serve or furnish alcoholic beverages after hours.
- e. Violations of City Code/State Law. Such violations will only be considered a strike in the event a criminal citation, criminal complaint or administrative citation is issued.

Section 810:75 Provisional Liquor License.

Subd. 1. Duration of Provisional License. Provisional Liquor Licenses will be issued for a 12 month period.

Subd 2. Mitigation Plan Required. The applicant for a provisional liquor license must

submit a mitigation plan that specifically describes steps proposed by the applicant to eliminate future violations.

Subd. 3. Application Review. The application for a provisional license will be presented to the City Clerk for review. The City Clerk will forward the application and mitigation plan to appropriate departments for review and comment. The City Clerk will approve, disapprove, or approve with conditions the application and mitigation plan. If the City Clerk denies an application and mitigation plan or approves with conditions, it will state the reasons for doing so in writing.

Subd. 4. Provisional License Application Fee. An application fee for a provisional license must be accompanied by a provisional license application fee. Fees will be set forth in Section 555 of this Code. An application will not be processed or considered by the City Council until the application fee is paid.

Subd. 5. Drink Specials Prohibited. A provisional liquor license holder may not offer drink specials or other promotions during the provisional licensing period.

Subd. 6. Compliance Checks. Liquor license compliance checks will be conducted frequently in order to ensure implementation of the mitigation plan and compliance with this section.

Subd. 7. Revocation of Provisional License. Additional ordinance or statutory violations or failure to comply with a mitigation plan during a provisional licensing period may result in revocation of the provisional liquor license.

History: Ord. 2350 4-2-07; Section 810:75 entitled "Penalty; Training Program" repealed by Ord. 2350 4-2-07; 2432 7-27-09; Section 810:28 entitled Proximity to schools, churches, residentially zoned property and the St. Germain Business District repealed by Ord. 2455 4-5-10; Ord. 2367 5-24-10. Ord. 2528 4-23-12; Ord. 2548 2-25-13; Ord. 2549 2-25-13; Ord. 2564 9-9-13; Ord. 2586 3-24-14; Ord. 2595 6-23-14; Ord. 2607 12-22-14; Ord 2621 6-8-15; Ord. 2644 12-21-15; Ord. 2705 5-22-17; Ord. 2749 4-30-18 Ord. 2874 8-22-22; Ord. 2883 10-10-22;