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ORDINANCE 71   LICENSING AND REGULATION OF CONSUMPTION OF INTOXICATING LIQUOR

Section 71.01: PROVISIONS OF STATE LAW ADOPTED. The provisions of Minn. Stat. Ch. 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full, except as herein altered or modified under the authority provided to municipalities in Minn. Stat. § 340A.509.

Section 71.02: LICENSE REQUIRED.

Subd. 1: General Requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of four kinds: "on-sale", "off-sale", "club" and "temporary on-sale" licenses.

Subd. 2: On Sale Licenses. "On sale" licenses shall be issued only to clubs, restaurants, and exclusive liquor stores and shall permit "on sale" of liquor only.

Subd. 3: Off Sale Licenses. "Off sale" licenses shall be issued only to exclusive liquor stores and shall permit "off sales" of liquor only.

Subd. 4: Special Club Licenses. Special club licenses shall be issued only to incorporated clubs which have been in existence for fifteen (15) years or more or to congressionally chartered veterans' organizations which have been in existence for ten (10) years.

Subd. 5: Temporary On-Sale Licenses. "Temporary on-sale" licenses shall be issued to a qualified applicant for a specified continual time period not to exceed four (4) days. All "temporary on-sale" licenses expire at 12:01 a.m. on the day following the last day of the license period. The "temporary on-sale" license shall be subject to the general terms and conditions of this ordinance, unless clearly inapplicable, with the following additions and/or changes:

a) A "temporary on-sale" license shall be issued only to organizations or entities which qualify as a non-taxable organization as defined by Sec. 501(c) (3-8) of the Internal Revenue Code.

b) Application for the "temporary on-sale" license shall be submitted at least 90 days prior to the date of applicability. The City Council may waive the 90 day deadline, but if doing so, shall charge a late fee not to exceed $250.00.
c) The license fee shall be paid at the time of application, subject to refund if the license is denied.

d) Proof of liability insurance in accordance with Section 71.03 Subd. 3 shall be delivered to the City Clerk/Administrator prior to issuance of the license.

e) The City Council may waive the investigation fee required by Section 71.05 Subds. 1 and 2 for applicants that have been in existence and operation in the City of St. Joseph for the five years preceding the application.

f) The "temporary on-sale" license is non-transferable.

g) The maximum number of "temporary on-sale" licenses which may be issued to an entity or organization in a single calendar year is three three-day, two three-day, one four-day, or six one-day licenses, or in any combination not to exceed six days per year.

Section 71.03: APPLICATION FOR LICENSE.

Subd. 1: Form. Every application for a license to sell liquor shall state the name of the applicant, his/her age, representations as to his/her character, with such references as the council may require, his/her citizenship, the type of license applied for, 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 he/she has been in that business at that place, and such other information as the council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the City Clerk/Administrator. No person shall make a false statement in an application.

Subd. 2: Bond. (Bonding requirements repealed 1991)

Subd. 3: Liability Insurance. Prior to the issuance of an "on sale" or "off sale" intoxicating liquor license, the applicant must demonstrate proof of financial responsibility with regard to liability imposed by Minn. Stat. §340A.409 with the Commissioner of Public Safety and the City Clerk/Administrator of St. Joseph as a condition of the issuance or renewal of his/her license.

Proof of financial responsibility may be given by filing.

a) A certificate that there is in effect an insurance policy or pool providing the following minimum coverages:

1. Fifty Thousand Dollars ($50,000) because of bodily injury in any one person in any one occurrence, and, subject to the limit for one person, in the amount of One Hundred Thousand Dollars ($100,000) because of
bodily injury to two or more persons in any one occurrence, and in the amount of Ten Thousand Dollars ($10,000) because of injury to or destruction of property of others in any one occurrence.

2. Fifty Thousand Dollars ($50,000) for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, One Hundred Thousand Dollars ($100,000) for loss of means of support of two or more persons in anyone occurrence; or

b) A bond of a surety company with minimum coverages as provided in clause a), or
c) A certificate of the State Treasurer that the licensee has deposited with him One Hundred Thousand Dollars ($100,000) in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of One Hundred Thousand Dollars ($100,000).

The liability insurance policy required by this subdivision shall provide that it may not be cancelled for any cause, either by the insured or the insurance company without first giving ten days notice to the City in writing of intention to cancel it, addressed to the City Clerk/Administrator of the City of St. Joseph.

The operation of an "off sale" or "on sale" business without having on file at all times with the City Clerk/Administrator the liability insurance policy herein referred to shall be grounds for immediate revocation of the license. Lapse of insurance or other evidence of financial responsibility will trigger an automatic revocation of the license. Notice of cancellation of a current liquor liability insurance policy shall also serve as notice to the licensee of the impending revocation and that unless evidence of compliance with the financial responsibility requirement is presented to the City Clerk/Administrator before the termination is effective, the license will be revoked instantly upon the lapse of insurance or other financial responsibility.

Section 71.04: LICENSE FEES.

Subd. 1: Payment. No "off sale" license or club license shall be issued until the full fee is paid to the City Treasurer, and no "on sale" license shall be issued until one half of the required fee is paid to the City Treasurer, and a promissory note for the remaining one half of the fee payable 6 months thereafter, and providing for the payment of collection fees equal to one half of the amount of the note, payable to the City of St. Joseph, is deposited with the City Treasurer.

Subd. 2: Fees. The annual fee for an “on-sale” or “off-sale” liquor license shall be established by resolution of the City Council, and the maximum amount allowed by law for a special club license. The fee for a temporary on-sale license shall be set by City Council Resolution.

Subd. 3: Term; Pro Rata Fee. Other than the "temporary on-sale" license, each license shall be issued for a period of one year except that if the application is made during the license year, the license may be issued for the remainder of the year for a pro rata fee, with any
unexpired fraction of a month being counted as one month. Every license shall expire on June 30.

Subd. 4: Refunds. No part of the fee paid for any license issued under this Ordinance shall be refunded except in the following instances upon application to the City Council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis when operation of the licensed business ceases not less than one month before expiration of the license because of:

a) Destruction or damage to the licensed premises by fire or other catastrophes.
b) The licensee's illness.
c) The licensee's death.
d) A change in the legal status of the municipality, making it unlawful for the licensed business to continue.

Section 71.05: GRANTING OF LICENSES.

Subd. 1: Preliminary Investigation. On an initial application for an "intoxicating liquor" license and on application for transfer of an existing "intoxicating liquor" license, the applicant shall pay with his/her application an investigation fee of not to exceed Five Hundred Dollars ($500.00) and the City shall conduct a preliminary background and financial investigation of the applicant. The application is such case shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an "intoxicating liquor" license, it shall so determine.

Subd. 2: Investigation Outside State. If an investigation outside the state is required, the applicant shall be charged the actual cost of the investigation, not to exceed Ten Thousand Dollars ($10,000), which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 3: Investigation Authorized. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal investigation for the investigation.

a) Pursuant to Minnesota Statutes Section 13.87, the St. Joseph Police Department is authorized to conduct criminal history background investigations for on-sale and/or off-sale liquor license applicants using Minnesota Computerized Criminal History data (purpose code E). Access to federal or interstate indexes for these purposes is expressly prohibited.
b) Before the background investigation is begun, the applicant must authorize the police department in writing to undertake the investigation and to release the information to the City Council, City Administrator, City Attorney and/or other appropriate City staff as necessary.

Subd. 4: Hearing and Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivisions 1 through 3. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No "off sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

Subd. 5: Denial. No liquor license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If the City rejects an application made pursuant to this Section, the City Administrator shall, within 14 days, notify the applicant in writing of the following:

a) The grounds and reason for the denial;

b) A list of deficiencies that, when corrected, would allow a reconsideration of the license application; and

c) Any appeal process(es) available to the applicant for reconsideration of the license request.

Subd. 6: Questioned Identity. Questioned identity situations may occur. Fingerprint verification will be allowed for cases where it is not clear if a record based on a name and date of birth search accurately corresponds to the subject of the inquiry.

Subd. 7: Person and Premises Licensed: Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

Subd. 8: Notice of Availability of License. If an on-sale or off-sale license becomes available because of non-renewal, recision or cancellation, or because of the availability of an additional license not previously issued by the City, the City shall advertise the availability of the license in the official legal newspaper of the City to provide notice of any interested parties. The notice shall inform the public that an application shall be submitted with the required investigation fee to the City Clerk/Administrator within 20 days of the date of publication. All applications so received shall be investigated in accordance with Subds. 1 through 3 of this section and the license may be granted after the City Council conducts a hearing on the various applications pursuant to Subd. 4 herein. In the event of multiple applications for a single license,
the City Council shall consider the following criteria when determining the applicant to whom the license shall be granted:

a) The applicant's past compliance with the general requirements of state and local law.

b) The results of the background investigation, including general moral character, any criminal charges or indictments not resulting in conviction, or conviction for offenses not acting as a total bar to license eligibility.

c) The applicant's failure to comply with ordinances or regulation of the City of St. Joseph or other municipality, or any deficiencies or delinquencies in the payment of any taxes, assessments or other financial claims of the City of St. Joseph or any other municipality.

d) The applicant's financial responsibility and ability to meet the legal requirements of the operation of the licensed premises.

e) The intent and feasibility of the applicant to actively participate in the operation and management of the licensed premises.

f) The attitude of the applicant toward the enforcement of liquor laws and laws relating to liquor consumption.

g) The location at which the applicant proposes to operate the licensed premises, and the manner in which the location will compliment or contradict surrounding property uses, as well as the availability of off-street parking.

h) Past experience of the applicant in the operation of a liquor establishment.

i) Insurability of the applicant.

Section 71.06: **PERSONS INELIGIBLE FOR LICENSE.** No license shall be granted to or held by any person:

a) Under 21 years of age.

b) Who is not of good moral character or repute.

c) Who, if he/she is an individual, is not a resident of the State of Minnesota, or does not become a resident of the State of Minnesota within 90 days after the license is issued. If the applicant is a corporation, at least one principal officer of the corporation must be a resident of the State of Minnesota or must become a resident of the State of Minnesota within 90 days after the license is issued.
d) Who is or has been convicted of any violation of any law in the United States or the State of Minnesota or of any local ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor, or whose liquor license has been revoked or who has committed a willful violation of any such laws or ordinance.

e) Who is a manufacturer or wholesaler of intoxicating liquor or is interested directly or indirectly in the ownership or operation of any such business.

f) Who is directly or indirectly interested in any other establishment in the municipality to which a license of the same class has been issued under this Ordinance.

Section 71.07: PLACES INELIGIBLE FOR LICENSE.

Subd. 1: General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2: Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

Section 71.08: CONDITIONS OF LICENSE.

Subd. 1: In General. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

Subd. 2: Licensee's Responsibility. Every licensee is responsible for the conduct of his/her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subd. 3: Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours, within one and one-half hours after the closing times as prescribed by law or at anytime anyone is present on the licensed premises.

Subd. 4: Annual Fire Inspection. Every licensee shall complete a Fire Inspection to check for the following:
   a. Unobstructed exits;
   b. Verification of posted occupancy load
   c. Fire extinguishers
   d. Kitchens – Fire suppression in hoods
   e. Other Fire Hazards that may be present.
Such inspection must be completed between May 15 and June 15 of each calendar year. Licensees not completing and passing the inspection will not be eligible for renewal or issuance.

Subd. 5: Removal of Trash and Debris. Trash and debris within the establishment’s property or property within 50 feet of the establishment shall be cleaned no later than 9:00 AM the following day, and all trash and debris located within that area, or trash and debris located adjacent to the area but originating from the designated outside area, shall be picked up and removed within that time period. Trash and debris consists of, but is not limited to cigarette butts, glass, paper, cans and other rubbish.

Subd. 6: Transaction Device Scanner. License holders with a 2:00 a.m. State License are required to use a transaction scan device or similar approved method at a point of sale or entry to verify the age and identification of patrons. “Transaction scan device” means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver’s license or other government-issued photo identification. Proof of use will include random checks as well as the establishment seizing and releasing to the Police Department all false identification cards obtained.

Subd. 7: Seized Identification Forms. A licensed retailer or municipal liquor store may seize a form of identification if the retailer or municipal liquor store has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer or municipal liquor store that seizes a form of identification as authorized under this paragraph must deliver it to a law enforcement agency within 24 hours of seizing such.

Subd. 8: Annual Meeting with Police Chief Required. Both the licensee and at least one of the managers that is responsible for conducting the licensee’s business at which liquor is sold must attend a meeting with the City’s Police Chief once per year to discuss the topics of liquor license rules and their enforcement. The date, time and location of the meeting will be set by the Police Chief.

Subd. 9: Nudity and Sexual Conduct Prohibited. The following acts or conduct on licensed premises are strictly prohibited:

1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing so as to expose or to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

2) To employ or use services of any host or hostess while such host or hostess is unclothed or in such attire, costume or clothing as described in Subd. 1 above.
c) To employ or use any dancers, musicians, or other performers or entertainers, who are unclothed or in such attire, costume or clothing as described in Subd. 1 above.

d) To directly or indirectly sponsor any contests which may foreseeably cause, result in or lead to the occurrence of the acts or incidents described in this Subd. 5.

e) To encourage or permit any person on the licensed premises to touch, caress or fondle breasts, buttocks, anus or genitals of any employee of the licensee or any performers or entertainers who are employed or whose services are used by the licensee.

f) To permit any person to perform acts of or acts which simulate:

1. With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual act which is prohibited by law.

2. Masturbation or bestiality.

3. With or upon another person the touching, caressing or fondling of the buttocks, anus, genitals or female breasts.

4. The displaying of the pubic hair, anus, vulva, genitals or female breasts below the top of the areola.

g) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

h) To permit any person to remain in or upon the licensed premises, or any area owned or controlled by the licensee which is viewable from upon the licensed premises, who exposes to public view any portion of his or her genitals or anus.

i) To permit the showing of film, still pictures, electronic reproduction, or other visual reproduction depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act which is prohibited by law.

2. Any person being touched, caressed or fondled on the breast, buttocks, anus, or genitals.

3. Scenes wherein a person displays the vulva, the anus or the genitals.
4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described herein.

j) A violation of any portion of this section shall be punishable as a misdemeanor. Both the licensee and the person(s) actually engaging in any of the prohibited acts shall be criminally liable. Any violation of this section shall also constitute grounds for revocation or suspension of the licensee's license, in accordance with the rules and procedures otherwise established by this ordinance and state law.

Section 71.09: HOURS OF OPERATION

Subd. 1: Applicability of State Laws. No sale of intoxicating liquor shall be made at any time when the sale of intoxicating liquor shall be prohibited by state law, except that no sale of intoxicating liquor shall be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor after 2:00 a.m. and 10:00 a.m. on Sunday, except as provided by Section 71.09 Subdivision 2.

Subd. 2: Sunday Liquor. A restaurant, club, or hotel with a seating capacity of at least 30 persons and which holds an on sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food after the hour of 10:00 a.m. on Sundays. An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. Any establishment requesting a Sunday license must show that they are in conformance with the Minnesota Clean Air Act. A license must be issued by the governing body of the municipality for a period of one year, and a fee as established by resolution of the City Council may be charged, but in no event shall said fee exceed the sum of Two Hundred Dollars ($200). The sale of liquor on Mondays between the hours of 12:00 a.m. and 1:00 a.m. is permitted unless otherwise prohibited by State law.

Subd. 3: Display of Liquor after Hours. All persons, except the licensee, his/her bona fide employees, and the law enforcement officers, shall be excluded from the premises within 30 minutes after the expiration of the time on any day when intoxicating liquor may be legally sold therein. It shall be unlawful to permit the consumption or displaying of intoxicating liquors later than 30 minutes after the sales must terminate. It shall be conclusively presumed that any intoxicating liquor remaining on a bar or in a booth or on a table thereafter shall be for the purpose of consuming the same in violation of this section.

Subd. 4: Enforcement by Licensee. The named licensee shall be responsible for the enforcement of this section and failure to do so shall be a violation of this Ordinance whether the named licensee, or any officer thereof, is physically present when the offense occurred.

If the licensee is operating any other lawful business in the building in which the licensed bar is located, no intoxicating liquor shall be served, nor permitted to be consumed, on the premises where such other business is conducted during the time when the bar must be closed as aforesaid.
Subd. 5: Sales after 1:00 a.m. Permit Fee: No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner. Application for the permit must be on a form the Commissioner prescribes. Permits are effective for one year from the date of issuance. The fee for the permit is based on the licensee’s gross receipts from on-sale of alcoholic beverages in the 12 months prior to the month in which the permit is issued and is at the rates established in Minnesota Statute 340A.504, Subd. 7.

Section 71.10: CLUBS. No club holding a special club license shall sell liquor except to members. No other licensed club shall sell liquor except to members, and to guests in the company of members.

Section 71.11: RESTRICTIONS ON PURCHASE OR CONSUMPTION.

Subd. 1: Persons to Whom Sale is Illegal.

a) No persons to whom the sale of intoxicating liquor is forbidden by state law shall misrepresent his/her age for the purpose of obtaining intoxicating liquor nor shall he/she enter any licensed premises under this Ordinance in order to procure said beverages, or to consume or purchase, or attempt to purchase, or have another purchase for him, such beverages on licensed premises.

b) No person shall induce a person to whom the sale of intoxicating liquor is forbidden by state law to purchase or procure intoxicating liquor.

c) Except as hereinafter provided, no person to whom the sale of intoxicating liquor is forbidden shall enter or remain in any place where intoxicating liquors are sold or given away. A person to whom the sale of intoxicating liquor is forbidden may be permitted to remain in specified areas of licensed premises if said person:

1. Is accompanied by his/her parent or legal guardian, or

2. Is in the restaurant for the purposes of eating, or

3. Is in a bona fide bowling establishment for the purpose of bowling or watching others bowl, or

4. Is in an approved game room area no later than 9:00 p.m. for the purpose of using or watching others use amusement devices, or

5. Is an employee of the licensed premises who is 18 years of age or older and is on the premises for purposes of his/her employment, or

6. Is a guest at a private reception or party.

d) For the purposes of this ordinance:

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1. **Private Reception or Party.** 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, which group may include persons under the age of twenty-one (21).

2. **Host.** For purposes of this ordinance is a person, at least 21 years of age, who has rented a discreet portion or all of the licensed premises, which person is financially responsible for the rental of the premises. The general public may not be allowed into or invited to the private party.

3. **Game Room.** Is defined as an enclosed area, separate and apart from the areas in which intoxicating liquor is sold or served, which is equipped with amusement devices and which has as its primary purpose the use and enjoyment of said amusement devices, provided, however, that no such area shall qualify as a game room if intoxicating liquor is served or delivered to the area by the licensee or his/her employees, before 9:00 p.m. Licensees seeking to establish and operate an approved game room area must first apply to the City Council for approval and must show that the area so designated conforms to the definition of "game room" set forth above. Council approval of any such area is required before minors may be allowed in the licensed premises pursuant to subparagraph d) of this subdivision.

4. **Licensed premises.** Shall not include any enclosed area, separate and apart from the area in which intoxicating liquor is sold or served, provided that such area is separated by an impermeable floor to ceiling barrier from the area in which intoxicating liquor is sold. Any licensee maintaining such an area at the same site as a licensed premises, shall be responsible for preventing persons under the legal age for purchasing intoxicating from entering the licensed premises and preventing the transport of any intoxicating liquor from the licensed premises into the separate area. The presence of an under age person in the licensed premises or the presence of alcohol in the separated area shall both be deemed violations of this ordinance subdivision by the named licensee.

e) The named licensee shall be responsible for enforcement of this subdivision, and failure to do so shall be a violation of this Ordinance by the licensee whether the named licensee, or any officer thereof, be physically present when the offense occurred.

Subd. 2: **Consumption in Public Place.**

a) No persons shall mix or prepare liquor for consumption in any public place or place of business not licensed to sell liquor "on sale" and no person shall consume liquor in any such place.
b) No liquor shall be sold or consumed on a public highway or in an automobile in any public place in the City of St. Joseph.

c) No liquor shall be consumed or carried in an open container on any public street, highway, alley, public sidewalk, public parking lot or private parking lot which is open for use by the general public.

d) No person shall consume or carry an open container of any liquor on any parking lot provided for the patrons of a licensee under this Ordinance. The licensee shall be responsible for the enforcement of this Section 11, Subdivision 2(d), and permitting any person to consume or carry an open container of liquor on any parking lot provided for the patrons of a licensee under this Ordinance shall be a violation of this Ordinance by the licensee.

e) For purposes of Section 11, Subd. 2 of this Ordinance, the term "Liquor" shall mean for purposes of inclusion but not limitation, all intoxicating liquor and spirits, intoxicating and non intoxicating malt liquors and wines.

f) For purposes of Section 11, Subd. 2, herein, "open container" is defined as any type of container from which a liquid may be readily poured, consumed, or otherwise removed, that has been opened, or the seal broken, or the contents of which have been partially removed.

Subd. 3: Identification. Every person shall process and show proper identification to a licensee, employee of a licensee or police officer when requested to do so when the following circumstances exist:

a) The person is entering or present in the premises licensed for the sale of intoxicating liquor.

b) The person is in possession of intoxicating or 3.2 percent malt liquor, either on or off licensed premises.

For purposes of this ordinance, proper identification shall be limited to a valid driver’s license or official state identification card.

Subd. 4: Consumption off the Premises. All intoxicating liquor sold "on-sale" shall be possessed and consumed inside the building where purchased "on-sale" except as allowed in Subdivisions 5 and 6 of this section. No person shall possess or consume any intoxicating liquor outside the building of an "on-sale" business if said intoxicating liquor was purchased "on-sale" except as allowed in Subdivisions 5 and 6 of this section. The licensee shall be responsible for the enforcement of this provision, and permitting a person possessing intoxicating liquor "on-sale" to leave the building shall be a violation of this Ordinance by the licensee.
Subd. 5: Permanent Outside Liquor. Notwithstanding the provisions of Section 71.11, Subdivisions 2, 3 and 4 herein, a licensee shall be allowed to sell intoxicating liquor and may allow persons to possess and consume said intoxicating liquor outside of a building of an "on sale" business pursuant to the following terms and conditions:

a) The said sale, consumption and possession is limited to property adjacent to and contiguous with the building of the "on-sale" business, and on real property owned or leased by the licensee. Under no circumstances shall the sale, consumption or possession of the intoxicating liquor occur on any public streets, alleys, sidewalks, park or other public property.

b) The area in which sale, consumption and possession of intoxicating liquors may occur shall be clearly designated and enclosed by permanent fencing, which will effectively control ingress and egress to the designated area, limiting ingress and egress to specific entrances and exits which must be effectively controlled by the licensee, his/her agents or employees. The fence shall be at least six feet in height but shall not be more than ten feet in height, and shall be constructed as a "privacy fence" so as to obstruct the view into the designated area from off the licensed premises; except, if the area is for sport-type recreational use, a chain link fence is deemed sufficient. The fence shall comply with structure and building setback requirements for the property on which it is constructed.

c) The licensee, his/her agents or employees shall be present at the designated outside area at regular intervals for the purpose of supervising the activity of those persons purchasing, possessing or consuming intoxicating liquor and further for the purpose of controlling ingress and egress to the designated area.

d) No intoxicating liquor shall be sold, served, possessed or consumed in the designated area outside of the building of an "on-sale" business later than 10:00 o'clock p.m. Customers or patrons shall not be allowed to remain in the outside area later than 10:15 o'clock p.m. The provisions of the St. Joseph Noise Ordinance (Ordinance 102) shall apply to the activities occurring in the outside area, including the playing of music. All activities must conform to the noise limitations established by Ordinance 102.

e) The licensee shall be responsible for the conduct of all persons present in the designated outside area. No person so located shall engage in obscene, vulgar or offensive language which can be heard outside the premises owned by the licensee, nor shall such persons engage in obscene or offensive conduct or actions which may be observed from outside the premises of the licensee.

f) Debris within the designated outside area shall be cleaned within one hour after the closing of the area, and all debris located within that area, or debris located adjacent to the area but originating from the designated outside area, shall be picked up and removed within that time period.

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g) Outside liquor consumption shall be prohibited within 150 feet of any area within the City zoned for residential use, as measured from the closest point of the designated outside liquor area.

h) All other provisions of this ordinance and state law, applying to the sale of intoxicating liquor, and the manner in which the licensee must conduct his/her business shall apply to the designated outside area in a similar manner as they apply to the licensed premises and the usual business conducted therein.

Subd. 6: Temporary Outside Liquor Permit.

a) Notwithstanding the provisions of Section 71.11, Subd.'s 2, 3 and 4 herein, a licensee shall be allowed to sell intoxicating liquor and may allow persons to possess and consume said intoxicating liquor outside of the building of an "on-sale" business, pursuant to a special permit from the City. Each permit issued by the City shall be applicable for a single designated period not to exceed 48 hours. The permit shall designate whether it is an "event permit" or a "seasonal permit." An event permit shall be applicable for a single designated period not to exceed 48 hours. A seasonal permit shall be valid from May 1 through September 1, or a designated portion thereof. Application for permit must be made to the City Clerk/Administrator at least ninety (90) days prior to the date for which the permit is to apply. Application shall be on a form prescribed by the City Council. Application shall be made in the name of licensee, and the licensee assumes full responsibility for any violation of the terms of the permit, this Ordinance or other law resulting from acts or conduct occurring on the licensed premises at the time the permit is in effect. Application for a permit shall be accompanied by a permit fee established and amended from time to time by Council resolution. The fee is non-refundable.

b) Upon receipt, the Clerk/Administrator shall forward the application to the Chief of Police for review, comment and recommendation. Upon completion of police review, the application shall be considered by the Council at a public meeting. Prior to meeting, the applicant shall notify the owners of property adjacent to the location of the proposed outside liquor of the pending application.

c) At the meeting, the Council may either deny or grant the permit and establish reasonable conditions and regulations controlling the permitted activities.

When considering a permit request, the Council shall consider the following factors:

1. Protection of the peace and repose of the residents of the City.

2. The safety of City residents and their property.

3. The reasonable concerns of City residents within the vicinity of the proposed activity.
4. The nature of the activity proposed and the manner in which the licensee intends on controlling the activity.

5. The general land use of the surrounding neighborhood.

6. Past experience with events of a similar nature and events held by the applicant.

7. Recommendations of the Police Department relative to public safety, law enforcement and the creation of disturbance.

8. Whether the event is one of general community interest or is in the nature of a civic event.

d) Permits for temporary outside liquor shall be subject to the following conditions.

1. Outside activities that are conducted in conjunction with liquor sales under this license, including but not limited to the playing of live or recorded music, shall cease at 9:30 p.m. except each license holder may on one night during each calendar year extend the outside activities until 12:00 midnight if the following conditions are met:

   a.) The event occurs on a Friday or Saturday, on July 3, or on the day preceding Memorial Day or Labor Day; and

   b.) The licensee has paid a surcharge in an amount established by Resolution of the City Council.

2. When the licensee submits his/her application for temporary outside liquor, he/she shall also submit to the Council a Complaint Mitigation Plan. This Plan shall outline actions required by the licensee prior to, during and after an event in order to mitigate the number of complaints from the public regarding the event. The Plan shall be signed by the licensee and must be approved and signed by each of the City’s Department Chairpersons. When creating this plan the licensee shall utilize the Complaint Mitigation Plan template provided with the application forms.

3. Upon payment of the application fee, the licensee shall also submit payment in the amount of $1,000 that will be deposited into an escrow account by the City and will be used to make payments for repairs, clean-up, fines and other expenses that the City will incur as a direct result of the licensed event(s). Those funds that are not used shall be returned to the licensee.
4. The licensee shall provide an appropriate number of properly trained security personnel to keep order and control during the entire license period.

e) In granting a permit for temporary outside liquor, the Council shall establish reasonable conditions to protect public health, safety, repose and property in addition to those listed above. The conditions established by the Council may include, but are not limited to, the following:

1. Limitation of the specific activities permitted.
2. Require measures to limit or regulate noise.
3. Limit the number of participants.
4. Make special provisions for additional parking.

f) In addition to those stated in the permit, all temporary outside liquor event permits shall be subject to the following terms and conditions:

1. Outside liquor shall only be allowed on the licensed premises.
2. Ingress and egress to and from the area in which liquor is served, consumed or possessed must be effectively controlled by a fence, tent wall, building or other structure.
3. The licensee, his/her agents or employees shall supervise the activities or persons within the outside liquor area for the purpose of enforcing the state and local liquor laws, and controlling ingress and egress to the area.
4. No live or recorded music may be played within the outside liquor area after 9:30 p.m., unless a written noise mitigation plan has been approved by Council Resolution for that specific event.
5. The permitted outside liquor area shall not cause an obstruction of a public street, alley or sidewalk, unless specifically permitted by the Council.
6. The licensee shall repair any damage to public property directly resulting from the activities, including but not limited to damage to pavement caused by tent stakes and supports.

Subd. 7. Underage Consumption: No person under the age of 21 years shall consume any alcoholic beverage, unless the alcoholic beverage is consumed in the household of said persons parent or guardian and with the consent of the parent or guardian.
a) **Penalty.** A violation of this provision of this Ordinance is subject to the administrative penalty of $150.

b) **Administrative Provision.** The administrative penalty provisions of this ordinance shall be enforced pursuant to St. Joseph Administrative Penalties Ordinance 14.05.

c) **Administrative Procedure Voluntary.** Persons who contest their liability or refuse to pay the assessed penalty will be charged through the normal judicial channels. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the city may bring criminal charges in accordance with law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense procedure and may bring criminal charges in the first instance.

d) **Notice.** Any officer of the City Police Department, and having authority to enforce this Ordinance, shall, upon determining that there has been a violation, notify the violator. This notice shall set forth the nature, date and time of violation, and amount of the scheduled penalty.

e) **Failure to Pay.** In the event a party charged with an administrative penalty under this subdivision fails to pay the penalty, within 20 days, a misdemeanor charge may be brought against the alleged violator in accordance with applicable state statutes. If the penalty is paid, no such charge may be brought by the City for the same violation.

f) **Disposition of Penalties.** All penalties collected pursuant to this Subdivision shall be paid to the City treasurer and may be deposited into the City’s general fund.

g) **Subsequent Offenses.** In the event a party is charged with a subsequent administrative offense under this Subdivision within a twelve (12) month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased to $200. Likewise, the city, in its discretion, may choose not to initiate an administrative offense procedure and may bring criminal charges.

A third violation of the provision of this Ordinance within a twelve (12) month period of paying an administrative penalty for the same or substantially similar offense will warrant criminal charges.

Section 71.12: **SUSPENSION AND REVOCATION.** The Council may either revoke or suspend for a period not to exceed sixty (60) days, any liquor license and/or assess a civil monetary fine of not more than One Thousand Dollars ($1,000) upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. § 14.57 to 14.69 of the Administrative Procedure Act. However, this section does not require the City to conduct the hearing before an employee of the Office of Administrative Hearings. The City may impose a penalty or suspension under this section.
Section 71.13: BOTTLE CLUBS. Bottle Clubs as defined under M.S.A. 340A.101 shall be prohibited within the City limits of St. Joseph. It shall be unlawful for any private club or for any business establishment without an authorized on sale liquor license, directly or indirectly, or upon any pretense or by any devise to allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing of intoxicating liquor.

Section 71.14: PENALTY. A violation of this ordinance constitutes a misdemeanor, except any person violating Section 11, Subd.'s 2 or 4 of this Ordinance is guilty of a petty misdemeanor. Violations of Section 11, Subd. 7 may be enforced through criminal and/or civil sanctions as set forth above.

Section 71.15: LIMITATION OF ON SALE LIQUOR LICENSES. The number of on sale liquor licenses which may be issued under Section 2, Subdivision 2, of this Ordinance shall be limited to six licenses. Liquor license in excess of six may be permitted by Resolution of the Council if the entity seeking the license is a restaurant and it has been determined that the entity complies with the requirements established in operating a restaurant under Minnesota Statute.

Section 71.16: LIMITATION OF EXCLUSIVE OFF-SALE LICENSES. The number of exclusive off-sale liquor licenses (off-sale licenses not held and operated in conjunction with an on-sale license) which may be issued under Section 2, Subd. 2 of this Ordinance, shall be limited based upon the population of the City of St. Joseph, as follows:

<table>
<thead>
<tr>
<th>Population of City</th>
<th>Exclusive Off-Sale Licenses Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 3,200</td>
<td>1</td>
</tr>
<tr>
<td>3,201 to 11,000</td>
<td>3</td>
</tr>
<tr>
<td>11,001 to 15,000</td>
<td>4</td>
</tr>
<tr>
<td>Over 15,000</td>
<td>5</td>
</tr>
</tbody>
</table>

The population of the City of St. Joseph shall be as established by the official census of the United States Department of Commerce or the official population estimates produced by the State Demographer's Office, whichever is most current.