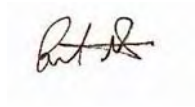


REQUEST FOR COUNCIL ACTION

Date: March 29, 2010
Item No.: 9.a

Department Approval



City Manager Approval



Item Description:

Adopt an Ordinance, Chapter 302, Liquor Control related to Conditions of the License and the Civil Penalty

BACKGROUND

Council Members Pust and Roe have discussed changes to the City Code related to the Conditions of granting Liquor Licenses and the Civil Penalty. On February 22, 2010, a Public Hearing was held and the proposed changes are provided in the attached document.

PROPOSED ACTION

Adopt and Ordinance, Chapter 302 of the Roseville City Code as it relates to the Conditions of a Liquor License and the Civil Penalty.

FINANCIAL IMPACTS

There are no financial impacts to the City

STAFF RECOMMENDATION

It is recommended the Council adopt the proposed changes to Chapter 302 of the Roseville City Code as it relates to the Conditions of a Liquor License and the Civil Penalty
and
Adopt an Ordinance Summary of an Ordinance enacting the proposed changes to Chapter 302 of the Roseville City Code as it relates to the Conditions of a Liquor License and the Civil Penalty.

REQUESTED COUNCIL ACTION

It is recommended the Council adopt an Ordinance enacting the proposed changes to Chapter 302 of the Roseville City Code as it relates to the Conditions of a Liquor License and the Civil Penalty.
and
Adopt an Ordinance Summary of an Ordinance enacting the proposed changes to Chapter 302 of the Roseville City Code as it relates to the Conditions of a Liquor License and the Civil Penalty.

Prepared by: Acting Chief Rick Mathwig
Attachment: A. Draft Ordinance
 B. Ordinance Summary

City of Roseville
ORDINANCE NO.
AN ORDINANCE AMENDING TITLE THREE, SECTION 302
302.08 C MANAGER AND SERVER TRAINING
302.15 B (MINIMUM) PENALTY

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Title Three, Section 302 of the Roseville City Code is amended to read as follows:

302.07: GRANTING OF LICENSE:

A. Investigation and Issuance: The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council shall, in its discretion, grant or refuse the application. At least ten days published notice of the hearing shall be given, setting forth the name of the applicant and the address of the premises to be licensed.

B. 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. Before a transfer is approved, the transferee shall comply with the requirements for a new application. Any transfer of 50% or more of the stock controlling interest of a corporate licensee is deemed a transfer of the license, ~~and a~~ Transfer of stock a license without prior City Council approval is a ground for revocation of the license. (Ord. 972, 5-13-1985)

302.08: CONDITIONS OF LICENSE:

Every license is subject to the conditions in the following subsections and all other provisions of this chapter and any other applicable ordinance, state law or regulation:

A. Licensee's Responsibility: Every licensee is responsible for the conduct of licensee's 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 chapter and the law equally with the employee.

B. 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 without a warrant.

C. ~~Optional~~ Manager and Server Training: ~~Proven participation in this program will reduce licensee holder penalties for failure of an alcohol sales compliance check. If this option is chosen, With the exception of temporary on-sale licenses issued pursuant to section 302.02, subparts k and l, all licensees and their managers, and all employees or~~

agents employed by the licensee that sell or serve alcohol, shall ~~attend and complete to the City's satisfaction~~only complete a city approved or provided liquor licensee training program. Both the City's approval of the training and the required training shall be completed:

1. Prior to licensure or renewal for licensees and managers, or
2. Prior to serving or selling for any employee or agent, and
3. Every year thereafter unless probationary extension is granted for hardship reasons.

All licensees shall maintain documentation evidencing that this provision has been met, and produce such documentation as part of each application for licensure or renewal and upon reasonable request made by a peace officer, health officer or properly designated officer or employee of the city pursuant to the inspections provision noted above. An applicant's or licensee's failure to comply with this provision in its entirety is sufficient grounds for denial or non-renewal of a requested license.

(Ord. 1243, 11-27-2000)

302.15: CIVIL PENALTY:

A. Penalty For Noncompliance: In addition to any criminal penalties which may be imposed by a court of law, the City Council may suspend a license for up to 60 days, may revoke a license and/or may impose a civil fine on a licensee not to exceed \$2,000.00 for each violation on a finding that the license holder or its employee has failed to comply with a statute, rule or ordinance relating to alcoholic beverages, non-intoxicating malt liquor or wine.

B. Minimum Penalty: The purpose of this section is to establish a standard by which the City Council determines the civil fine, the length of license suspensions and the propriety of revocations, and shall apply to all premises licensed under this chapter. These penalties are presumed to be appropriate for every case; however, the council may deviate in an individual case where the council finds that there exist certain extenuating or aggravating circumstances, making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent the sale of alcohol to minors or, in the converse, when a licensee has a history of repeated violations of state or local liquor laws. When deviating from these standards, the council will provide written findings that support the penalty selected. When a violation occurs, the staff shall provide information to the City Council to either assess the presumptive penalty or depart upward or downward based on extenuating or aggravating circumstances. The staff shall notify the licensee of the information being considered and acted upon by the City Council.

~~The following violations are presumed to require revocation of the license on the first violation:~~

~~Commission of a felony related to the licensed activity.~~

~~Sale of alcoholic beverages while license is under suspension.~~

~~Sale of intoxicating liquor where only license is for 3.2 percent malt liquor.~~

~~Other violations, including the following shall have a presumed penalty as indicated below:~~

~~Sale of alcoholic beverages to underage persons.~~

~~Sale of alcoholic beverages to obviously intoxicated person.~~

~~After hours sale/display/consumption of alcoholic beverage.~~

~~Illegal gambling on premises.~~

~~Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages (on sale allowing off sale).~~

~~1. For on-sale license holders who participate in optional manager and server training and prove the person who sold or served alcohol had received city approved alcohol beverage server training within the previous year:~~

~~a. For a first violation, the license holder will be given a warning letter.~~

~~b. For a second violation in 36 months, the mandatory minimum penalty shall be a \$500.00 fine and a one day suspension.~~

~~c. For a third violation in 36 months, the mandatory minimum penalty shall be a \$500.00 fine and a three day suspension.~~

~~d. For a fourth violation in 36 months, the mandatory minimum penalty shall be a \$1,000.00 fine and a five day suspension.~~

~~e. For a fifth violation in 36 months, the license shall be revoked, or in alternative, the license shall not be renewed.~~

~~2. For on-sale license holders who do not participate in optional manager and server training:~~

~~a. For a first violation, the mandatory minimum penalty shall be a \$500.00 fine and a one day suspension.~~

~~b. For a second violation in thirty-six (36) months, the mandatory minimum penalty shall be a (\$500.00 fine and a three day suspension.~~

~~c. For a third violation in 36 months, the mandatory minimum penalty shall be a \$1,000.00 fine and a five day suspension.~~

~~d. For a fourth violation in 36 months, the license shall be revoked, or in alternative, the license shall not be renewed.~~

~~3. For off-sale license holders who participate in optional manager and server training and prove the person who sold or served alcohol had received city approved alcohol beverage server training within the previous year:~~

~~a. For a first violation, the license holder will be given a warning letter.~~

~~b. For a second violation in 36 months, the mandatory minimum penalty shall be a \$500.00 fine.~~

~~c. For a third violation in 36 months, the mandatory minimum penalty shall be a \$500.00 fine and a three day suspension.~~

~~d. For a fourth violation in 36 months, the mandatory minimum penalty shall be a one thousand dollar (\$1,000.00 fine and a five day suspension.~~

~~e. For a fifth violation in 36 months, the license shall be revoked, or in alternative, the license shall not be renewed.~~

~~4. For off-sale license holders who do not participate in optional manager and server training:~~

~~a. For a first violation, the mandatory minimum penalty shall be a \$500.00 fine.~~

~~b. For a second violation in 36 months, the mandatory minimum penalty shall be a \$500.00 fine and a three day suspension.~~

- c. For a third violation in 36 months, the mandatory minimum penalty shall be a \$1,000.00) fine and a five day suspension.
- d. For a fourth violation in 36 months, the license shall be revoked, or in alternative, the license shall not be renewed. (Ord. 1280, 03-31-03)

(1) Except as otherwise provided in this Chapter, the following violations will subject the licensee to the following administrative penalties:

<u>Type of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd Violation</u>	<u>4th Violation</u>
<u>Sale of alcoholic beverage to a person under the age of 21</u>	<u>\$1,000 and one day suspension</u>	<u>\$2,000 and 5 day suspension</u>	<u>\$2,000 and 60 day suspension</u>	<u>Revocation</u>
<u>Sale of alcoholic beverage to an obviously intoxicated person</u>	<u>\$1,000 and one day suspension</u>	<u>\$2,000 and 5 day suspension</u>	<u>\$2,000 and 60 day suspension</u>	<u>Revocation</u>
<u>Failure of an on-sale licensee to take reasonable steps to prevent a person from leaving the premises with an alcoholic beverage (on-sale allowing off-sale)</u>	<u>\$1,000 and one day suspension</u>	<u>\$2,000 and 5 day suspension</u>	<u>\$2,000 and 60 day suspension</u>	<u>Revocation</u>
<u>Refusal to allow City inspectors or police admission to premises</u>	<u>\$1,000 and 7 days suspension</u>	<u>\$2,000 and 14 days suspension</u>	<u>Revocation</u>	<u>N/A</u>
<u>After hours sale, possession by a patron or consumption of alcoholic beverages</u>	<u>\$1,000 and 7 days suspension</u>	<u>\$2,000 and 14 days suspension</u>	<u>Revocation</u>	<u>N/A</u>
<u>Illegal gambling on premises</u>	<u>\$1,000 and 7 days suspension</u>	<u>\$2,000 and 14 days suspension</u>	<u>Revocation</u>	<u>N/A</u>
<u>Sale of alcoholic beverages while license is under suspension</u>	<u>Revocation</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Sale of intoxicating liquor with only 3.2 percent malt liquor license</u>	<u>Revocation</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Commission of a felony related to licensed activity</u>	<u>Revocation</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

(2) Any prior violation that occurred more than 36 calendar months immediately preceding the most current violation will not be considered in determining successive violations.

(3) Any violation that occurred within 12 calendar months immediately preceding the most current violation will cause the current violation to be considered a next subsequent

violation (a second violation will be considered a third, a third violation will be considered a fourth) with corresponding penalties.

(4) In addition to the administrative penalties identified above, the city may in appropriate circumstances choose to not renew a license at the end of its current term for any and all reasons allowed by law.

C. Hearing and Notice: If, after considering the staff's information, the City Council proposes to suspend or revoke a license, the licensee shall be provided written notice of the City Council's proposed action and shall be given the opportunity to request a hearing on the proposed penalty by providing the City a written notice requesting a hearing within ten days of the mailing of the notice of the City Council's proposed action. The notice of the proposed action of the City Council shall state the nature of the charges against the licensee and the action the City Council proposes to take, shall inform the licensee of the right to request a hearing prior to the action being final, and shall inform the licensee of the date the City Council's proposed action will be considered a final decision if a hearing is not requested. Any hearing, if requested, will be conducted in accordance with Minnesota statutes section 340A.415 and sections 14.57 to 14.69 of the Administrative Procedures Act ("APA"). If a hearing is requested, the licensee shall be provided a hearing notice at least ten days prior to the hearing, which shall state the date, time and place of the hearing and the issues involved in the hearing. An independent hearing officer shall be selected by the City Council to conduct the hearing and shall make a report and recommendation to the City Council pursuant to the provisions of the APA. The City Council shall consider the independent hearing examiner's recommendation and issue its final decision on the suspension or revocation. (Ord. 1243, 11-27-2000; Ord. 1280, 3-31-03) (Ord. 1336, 5-08-2006)

**CITY OF ROSEVILLE
OFFICIAL SUMMARY OF ORDINANCE NO.**

**AN ORDINANCE AMENDING TITLE THREE, SECTION 302
302.08 C MANAGER AND SERVER TRAINING
302.15 B (MINIMUM) PENALTY**

The City Council of the City of Roseville adopted Ordinance No. on February 22, 2010, which is summarized as follows:

An ordinance amending title three, Section 302.08C, **Conditions of License, Optional Manager and Server Training**. Proposed amendment states the City approved *Manager and Server Training Program* is a requirement for all licensees as follows: all licensees shall maintain documentation evidencing that this provision (i.e., participation in the City provided Manager and Server Training Program) has been met, and produce such documentation upon reasonable request. An Applicant's or licensee's failure to comply with this provision in its entirety is sufficient grounds for denial or non-renewal of a requested license.

An ordinance amending title three, Section 302.15B, **Civil Penalty, Minimum Penalty**. Proposed amendment increases penalties (both suspension of licenses and City fines) for liquor license violations, and proposes revocation of license after 4th violation, and proposes that any prior violation occurring more than 36 calendar months immediately preceding the most current violation will not be considered in determining successive violations, and violations occurring within 12 calendar months preceding the most current violation causes the current violation to be considered a next subsequent violation with corresponding penalties, and in addition to the administrative penalties identified, the City may choose to not renew a license for all reasons allowed by law.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and summary is also be posted at the Reference Desk of the Roseville Branch of the Ramsey County Library, 2160 Hamline Avenue, Roseville, Mn. 55113, and on the internet web page of the City of Roseville (www.ci.roseville.mn.us).

Attest: _____
William J. Malinen, City Manager

Date: _____