

To: **Mayor and City Council**
Through: **Ryan Schroeder, City Manager**
From: **Brian Sturgeon, Chief of Police**
Date: **February 24, 2020**

Alcohol Compliance Failures – Sanction Hearings

BACKGROUND INFORMATION:

Each year the Police Department conducts alcohol compliance checks on City licensed establishments. In addition, there may be license violations that occur throughout the year due to the result of a different type of activity such as assaults, disorderly persons or loud music complaints.

In performing compliance checks, the Police Department utilizes age appropriate individuals who are under police supervision. These individuals will enter an establishment and either request to be served alcohol or attempt to purchase an alcoholic beverage.

Alcohol underage buyers look younger than 21 and their appearance is not altered. All underage buyers are searched by the officers prior to going into an establishment and possess “marked” money in which to make the purchase. They also possess their government issued identification card which is not altered. They will not lie about their age if asked and will be fully truthful. If the underage buyer is served alcohol or purchases alcohol, the officers are made aware of the situation and confronts the seller for violating Minnesota statute 340A.503(2)1 – Sell/furnish/give alcohol to a person under the age of 21.

In addition to the individual criminal charge to the store employee, by City Ordinance licensed establishments that fail a compliance check or commits other types of license violations are subject to a civil sanction. For alcohol sanctions, the Council has developed and adopted through resolution an Alcohol Sanction Grid in order to encapsulate all factors surrounding the specific license violation(s). A copy of this Alcohol Sanction Grid is attached to the packet.

During the past alcohol compliance checks in November of 2019 the establishments listed below failed the compliance check:

- El Nuevo Morelos located at 360 Bernard Street W
- Smith Ave Liquor located at 977 Smith Ave S
- R & B Liquors located at 1111 Robert St S

Tonight is the sanction hearings on the license violations. All license holders have been made aware of the sanction hearing this evening pursuant to state statute. Each license holder will have a separate hearing and imposition of sanctions that will be enforced through adoption of a resolution.

FISCAL IMPACT:

		Amount
Fund:		
Department:		
Account:		

STAFF RECOMMENDATION:

Review and discuss the recommended sanctions. Allow for the licensee to provide testimony, bring forth witnesses and/or evidence for your review which is required by city ordinance. Adopt the proper civil sanctions for the particular license violation through adoption of the resolution.

Alcohol-related Civil Penalties Grid

<p><u>Level 3 – HFLS</u></p> <p>\$500-1,000 fine And/or 5-10 day suspension revocation</p>	<p><u>Level 4 – HFHS or 3 or More Aggravating Factors</u></p> <p>\$1,000 -2,000 fine And/or 10-60 days suspension revocation</p>
<p><u>Level 1 - LFLS</u></p> <p>Training, Installation of Alcohol devices, Video surveillance, security, etc \$0-500 fine</p>	<p><u>Level 2 – LFHS</u></p> <p>\$500-1,000 fine And/or 3-5 day suspension</p>

Key:

- Level 1 – LFLS: Low Severity, Low Frequency
- Level 2 – LFHS: Low Frequency, High Severity
- Level 3 – HFLS: High Frequency, Low Severity
- Level 4 – HFHS: High Frequency, High Severity

1. Incident Severity and Frequency – The city department reporting the violation to the City Council will substantiate the severity and frequency of the incident in a report based on the number of incidents occurring at the licensed location under the same licensee for the previous five years. Incident severity and frequency will take into consideration the totality of the circumstances and the potential or actual impact on a specific neighborhood or to the overall community.

2. Aggravating Factors – Aggravating Factors in a single incident may cause a move in the grid to the next level (either up or sideways). Examples of Aggravating Factors include, but are not limited to:
 - Any prior violation of alcohol-related incidents in the last 5 years of the new incident (each prior shall be counted as on Aggravating Factor);
 - *Felony or gross misdemeanor charges were issued out of the new incident;
 - Any weapons, drugs or violence involved in the new incident;
 - The act endangered the public;
 - *The act involved a juvenile;
 - The act involved bias or discrimination;
 - The act lead to other crimes (i.e. over-serving then involved in a car accident) *(gross misdemeanor charges or incidents involving a juvenile stemming from a routine alcohol compliance check conducted by the Police Department shall not be counted as an Aggravating Factor in a single incident)

3. Penalties may include a Fine, Suspension, or Revocation or any combination thereof.