

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: Nov 14, 2011  
Item No.: 12.b

Department Approval



City Manager Approval



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Item Description:     **PRESUMPTIVE PENALTY APPROVAL—CHILI'S RESTAURANT  
ALCOHOL COMPLIANCE FAILURE**

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**Background**

On March 28<sup>th</sup>, 2011, all businesses with a liquor license in the City of Roseville were mailed a letter from the Roseville Police Department announcing two alcohol compliance checks would be conducted before the end of the year. The letter included notice of recent changes to Roseville City Ordinances regarding mandatory liquor licensee training programs and penalties for noncompliance. Also in the letter were instructions for the City of Roseville mandatory liquor licensee training program, and the name of a police contact should a business need additional information on the licensee program. Training was to be completed by every employee prior to the employee selling or serving alcohol and documentation of this training was to be completed and kept on file by the business.

**Compliance Failure**

On Tuesday, September 13, 2011, a plain clothes Roseville Police Officer, along with an underage buyer entered the Chili's Restaurant, 1840 County Road B2 West, Roseville, MN to conduct an alcohol compliance check. The underage buyer, as well as the plain clothes police officer, entered the bar area of the restaurant. The underage buyer and officer sat at the bar. The bartender approached and asked what they wanted to drink. The underage buyer said he wanted a Bud Light tap beer and the plain clothes officer said water. The bartender asked the underage buyer for identification. The underage buyer handed the bartender his valid Minnesota photo driver's license. The bartender took possession of the license, studied it and returned it to the buyer. The bartender then returned and placed a glass of beer directly in front of the buyer. The bartender took possession of a \$20.00 bill provided by the buyer and returned with change. The bartender was administratively cited for the violation and released. On October 5, 2011, Chili's Restaurant was mailed a letter requesting documentation of a City of Roseville approved liquor licensee training program. This documentation was to be received by the Police Department no later than October 14, 2011. Lt. Rosand received correspondence from Chili's Restaurant management on October 11, 2011, which documented the employee in question had last completed a City of Roseville approved liquor license training program on May 22, 2010. This is Chili's restaurant first liquor compliance failure/violation in the last thirty-six (36) months.

**Staff Recommendation**

Issue and administer the presumptive penalty pursuant to City Code Section 302.15, for on-sale license holders for the first violation within thirty-six (36) months. The mandatory minimum penalty shall be a one thousand dollar (\$1,000.00) fine and a one (1) day suspension.

Discuss violation of City Code Section 302.08, *Manager and Server Training*. Failure to comply with this provision in its entirety is sufficient grounds for denial or nonrenewal of a requested license in 2012.

**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.

**Council should also be aware of the following:**

40 **Minnesota Statute 340A.402 PERSONS ELIGIBLE.**

41 No retail license may be issued to:

42 (1) a person under 21 years of age;

43 (2) a person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked  
44 within five years of the license application, or to any person who at the time of the violation owns  
45 any interest, whether as a holder of more than five percent of the capital stock of a corporation  
46 licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a  
47 corporation, partnership, association, enterprise, business, or firm in which any such person is  
48 in any manner interested;

49 (3) a person not of good moral character and repute; or

50 (4) a person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

51 In addition, no new retail license may be issued to, and the governing body of a municipality  
52 may refuse to renew the license of, a person who, within five years of the license application,  
53 has been convicted of a felony or a willful violation of a federal or state law or local ordinance  
54 governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic  
55 beverage. The Alcohol and Gambling Enforcement Division or licensing authority may require  
56 that fingerprints be taken and forwarded to the Federal Bureau of Investigation for purposes  
57 of a criminal history check.

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59 **Council Action Requested**

60 Allow the Roseville Police Department to issue and administer the presumptive penalty as set forth in Section  
61 302.15, of the Roseville City Code or other action as determined by the Roseville City Council.

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**Prepared by:** Lt. Lorne Rosand

Attachments:

A: Police Report

B: Letter announcing compliance checks

C: Notifications of failure and investigation

D: Documentation from Chili's restaurant regarding training

E: Letters announcing Council Meeting

63



## ROSEVILLE POLICE DEPARTMENT INCIDENT REPORT

<b>ICR#</b> 11026545	<b>AGENCY ORI#</b> MN0620800	<b>JUVENILE:</b>
<b>INCIDENT</b>	<b>Reported:</b> 09-13-2011 2023 <b>First Arrived:</b> 2023 <b>Last Cleared:</b> 2024 <b>Committed Start:</b> 09-13-2011 2023 <b>Committed End:</b> <b>Title:</b> Alcohol Violations <b>How Received:</b> None Selected <b>Short Description:</b> Failed Alcohol Compliance Check <b>Location(s)</b> CHILI'S RESTAURANT <b>Address:</b> 1840 CO RD B2 W <b>City:</b> Roseville <b>State:</b> MN <b>Zip:</b> 55113	
<b>OFFICERS</b>	<b>Officer Assigned:</b> Brake, Matthew <b>Badge No:</b> 193 <b>Primary:</b> No	
<b>MOC</b>	<b>MOC:</b> M4102 <b>Literal:</b> LIQUOR - SELLING <b>Statute:</b> 340A-401 <b>UCR:</b> 22	
<b>NAMES</b>	<b>Involvement:</b> Cited <b>Name:</b> Wright, Chelsia Kim <b>DOB:</b> <b>Age:</b> <b>Sex:</b> <b>Race:</b> <b>Height:</b> <b>Weight:</b> <b>Address:</b> 1139 C 100TH AVE NE <b>City:</b> BLAINE <b>State:</b> MN <b>Zip:</b> 55434 <b>Phone:</b> (Cell) (612)232-6459 <b>Hair Color:</b> <b>ID Number(s)</b> <b>ID Type:</b> DL / ID Number <b>ID #:</b> <b>State:</b> <b>Year:</b> <b>Class:</b> D	
	<b>Involvement:</b> Mentioned <b>Name:</b> Vanness, David Paul <b>DOB:</b> <b>Age:</b> <b>Sex:</b> <b>Race:</b> <b>Height:</b> <b>Weight:</b> <b>Address:</b> 1715 EDGERTON ST <b>City:</b> MAPLEWOOD <b>State:</b> MN <b>Zip:</b> 55117 <b>Phone:</b> (Home) (612)670-3691 <b>Phone:</b> (Work) (651)633-7718 <b>Hair Color:</b> <b>ID Number(s)</b> <b>ID Type:</b> DL / ID Number <b>ID #</b> <b>State:</b> <b>Year:</b> <b>Class:</b> D	
	<b>Involvement:</b> Other <b>Name:</b> XXXXXXXXXXXX XXXXXXXX XXXXXX <b>DOB:</b> XX-XX-1991 <b>Age:</b> 20 <b>Sex:</b> <b>Race:</b> <b>Height:</b> XXX <b>Weight:</b> XXX <b>Address:</b> XXXX XXXXX XX <b>City:</b> XXXXXXXXXX <b>State:</b> XX <b>Zip:</b> XXXXX <b>ID Number(s)</b> <b>ID Type:</b> DL / ID Number <b>ID #:</b> XXXXXXXXXXXXXXXX <b>State:</b> <b>Year:</b> <b>Class:</b>	

### Supplemental Report

ICR: 11026545

09-28-2011 1156

Title: Alcohol Compliance Check

Created By: Matthew Brake

On 09/13/2011 at approximately 2020 hours I was at Chili's Restaurant conducting an on duty alcohol compliance check. My under 21 associate, XXXXXXXX XXXXXXXX XXXXXXXXXXXXXXXX (XXXXXXXX1991), was in plain clothes along with myself.

We entered Chili's and sat down at the bar. The bartender, later identified as Chili's employee CHELSIA KIM WRIGHT (09/12/1981), approached us and asked if we wanted anything to drink. XXXXXXXXXXXX replied I will have a Bud Light Tap and I replied water. WRIGHT asked for XXXXXXXXXXXXs ID. XXXXXXXXXXXX provided WRIGHT with his Minnesota issued driver's license. WRIGHT took XXXXXXXXXXXX's ID into her hands and studied it. WRIGHT handed XXXXXXXXXXXX back his ID and came back with a Bud Light tap beer. WRIGHT placed the beer directly in front of XXXXXXXXXXXX for him to consume. XXXXXXXXXXXX provided wright a RPD department issued \$20.00. WRIGHT took the bill as payment for the provided tap beer and returned proper change to XXXXXXXXXXXX.

I identified myself to Wright as a Roseville Police Officer and provided my department issued badge. I advised her she had failed the RPD alcohol compliance check and I would need to speak to her manager. Store manager DAVID VANNESS presented himself and was made aware of the situation.

WRIGHT was issued administrative citation #22492 for selling on sale alcohol to a person under 21 years of age. WRIGHT was released on scene.

A photo copy of XXXXXXXXXXXXs MN DL which he presented to WRIGHT was placed in the paperwork portion of the report.

Nothing Further.

#### Supplemental Report

ICR: 11026545

10-13-2011 1549

Title: Manager and Server Documentation

Created By: Lorne Rosand

On or about Tuesday, October 11, 2011, I received the attached manager and server training documentation from the Chili's Restaurant specific to employee/server Chelsia Wright.

Upon review of this documentation, I learned Wright had completed her alcohol server training on May 22, 2010. The alcohol server training is outside of 1-year conditions of license documented in code 302.08C3.

Report is for informational purposes.

#### Supplemental Report

ICR: 11026545

10-13-2011 1557

Title: Supplement Report

Created By: Lorne Rosand

On Tuesday, September 20, 2011 at 1026 hours, Chelsic Wright paid her administrative offense violation of \$250.00 to the city of Roseville for sale of alcohol to a minor.

See attached media file for a copy of the receipt.

Report for informational purposes.



March 28, 2011

Applebee's Neighborhood Grill  
 ATTN: MANAGER  
 1893 West Highway 36  
 Roseville, MN 55113

*- Sample -  
 This letter was sent to  
 all businesses.*

ATTN: MANAGER

**Please thoroughly review the following information as it pertains to alcohol compliance checks conducted by the Roseville Police Department, relative to your establishment.**

The City of Roseville began alcohol compliance checks on licensed alcoholic beverage sellers in 1997. At that time, the compliance rate was only 70%. Nearly 30% of our licensees failed those compliance checks. The Roseville Police Department does yearly compliance checks to insure licensed alcoholic beverage sellers in the City of Roseville are complying with State law and Roseville Code Provisions relating to the selling of alcoholic beverages.

Please review the following relating to sales of alcohol to underage persons:

*Minnesota Statute Chapter 340A.503 PERSONS UNDER 21; ILLEGAL ACTS.*

*Subdivision 1. Consumption.*

*(a) It is unlawful for any:*

*(1) retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store;*

*Subdivision 2. Purchasing. It is unlawful for any person:*

*(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;*

The City of Roseville has passed a Liquor Control Ordinance. It is Chapter 302 of the Roseville City Code. The Roseville Police Department encourages you to become familiar with the Liquor Control Ordinance of Roseville. It can be obtained at the Roseville City Hall. It can also be reviewed and downloaded by going to the City of Roseville website, [www.ci.roseville.mn.us](http://www.ci.roseville.mn.us).

The civil penalties for underage alcoholic beverage sales are set forth in the Roseville City Code. There are presumptive penalties set forth in § 302.15 of the Code. These penalties vary depending upon whether it is a first time violation, a second time violation, a third time violation, etc.

March 28, 2011

Page 2

The Roseville Police Department has worked with City alcoholic beverage licensees to promote training for both servers and managers to prevent sales of alcohol to underage persons, and to prevent other violations of the Liquor Control Ordinance. All licensees and their managers, and all employees or agents employed by the licensee that sell or serve alcohol, must complete a city approved or provided liquor licensee training program. Free training packets are available from the City. You can obtain information regarding the program by contacting Kelly Roberto of the Roseville Police Department, at [kelly.roberto@ci.roseville.mn.us](mailto:kelly.roberto@ci.roseville.mn.us).

Both the City's approval 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.

Your business must maintain documentation that you have properly trained every employee that sells or serves alcohol, and produce such documentation upon reasonable request made by a peace officer, health officer or properly designated officer or employee of the city. The City will not maintain these records for you. Additional penalties may be assessed if you are unable to provide documentation or it is determined the employee did not under go the required training.

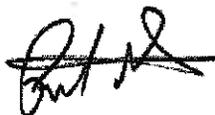
**The mandatory minimum penalty for the sale of alcoholic beverages to underage individuals is a \$1,000 fine and a one day suspension.**

These penalties are civil in nature. Please be aware criminal penalties may also be imposed for violations of the Liquor Control Ordinance.

The Roseville Police Department will do two compliance checks in 2011 beginning this spring. Please remind your employees of their legal and moral responsibility not to sell or serve alcoholic beverages to anyone under the age of 21.

Once again, we encourage you to review Roseville City Code, Chapter 302, to insure that you have familiarized yourself with the local regulations applicable to your establishment. If you have any questions, please contact Lt. Lorne Rosand at (651) 792-7211.

Sincerely,



Rick Mathwig  
Chief of Police



October 5, 2011

David Vanness  
Chill's Restaurant  
1840 County Road B2 West  
Roseville Minnesota 55113

David Vanness and/or General Manager:

As you know, the City of Roseville has an ordinance prohibiting the sale of any alcoholic beverage to persons under the age of 21 years. A copy of Roseville Code 302 has been enclosed for your review. Please note Section 302.15 of code where minimum penalties are stipulated.

On September 13, 2011, a Chili's employee named Chelsia Wright sold an alcoholic beverage to a minor in violation of the attached code. Our records indicate that this is your first violation in the previous thirty-six (36) months. Therefore, pursuant to Section 302.15 of Roseville City Code, the presumptive penalty for a first violation for sale of an alcoholic beverage to a person under the age of twenty-one is a minimum penalty of a \$1,000.00 fine and a one (1) day suspension.

This incident is currently under investigation by the Roseville Police Department. You are being asked to provide a training certificate documenting Chelsia Wright has completed a city approved or provided liquor license training program. **I must receive a copy of Wright's training certification from you by Friday, October 14<sup>th</sup>. Failure to provide this training certification may result in additional penalties because of non compliance.**

When a violation occurs, the police department provides information to the City Council, which either will assess the presumptive penalty set forth above or depart upward or downward based on extenuating or aggravating circumstances. The information set forth in this letter regarding the failed compliance check will be passed on to the City Council, as well as information regarding your participation in the manager and server training program and the history of compliance checks at your establishment. Once the date of the Council meeting is established, I will send you notice.

A representative of your establishment may appear at the Council meeting to offer any information that you deem relevant as to whether the Council should deviate from the presumptive penalties set forth in the Roseville City Code. If you fail to appear at that meeting, the City Council will act without any input from your establishment.

Finally, please be advised that if another violation should occur, further penalties will be invoked. If you have any questions, you can reach me during normal business hours at my desk telephone number of 651-792-7211.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lorne R. Rosand".

Lorne R. Rosand  
Lieutenant  
Roseville Police Department

Enclosure

Cc: Rick Mathwig – Chief of Police  
Bill Malinen – City Manager

**RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION**

*Chilis Roseville*

1840 W County RD B2 Roseville MN 55113

Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

*Chelsia Wright*  
Signature

9-22-10  
Date

CHELSIA WRIGHT  
Printed name

9-27-10  
Date of Hire

*Serena Meuwissen*  
Manager's Signature

5/22/10  
Date of Training

SERENA MEUWISSEN  
Manager's Printed Name



October 28, 2011

David Vanness  
General Manager  
Chili's Restaurant  
1840 West County Road B2  
Roseville Minnesota 55113

Mr. David Vanness;

Reference: September 13, 2011 Chili's Restaurant Alcohol Compliance Failure.

On Monday, November 14, 2011, the Roseville City Council will discuss the September 13, 2011 alcohol compliance failure at Chili's Restaurant. Staff has recommend Council impose the presumptive penalty of a \$1,000.00 fine and one (1) day liquor suspension. The penalty for non compliance with mandatory liquor licensee training program may be considered for non renewal or denial of your 2012 liquor license.

A representative of your establishment may appear at the time of council discussion to offer any information that you deem relevant as to whether the Council should deviate from the presumptive penalties set forth in the Roseville City Code. If you fail to appear at this meeting, the City Council will act without any input from your establishment.

Summary of Violation:

- March 28, 2011:** All businesses with a liquor license in the City of Roseville were mailed a letter from Roseville Police Department announcing two alcohol compliance checks would be conducted before the end of the year.
- September 13, 2011:** A Chili's Restaurant employee serves an underage compliance buyer an alcoholic beverage after reviewing the buyer's Minnesota photo identification which clearly indicates "UNDER 21". This violation is witnessed by a plain clothing police officer. The employee server is administratively cited for the violation.
- September 20, 2011:** The Chili's Restaurant server/violator pays a \$250.00 administrative fine to the City of Roseville for violating city code.
- October 14, 2011:** Chili's Restaurant provides server training documentation showing the offending server last received internal alcohol server training on or about May 2010. Chili's restaurant has failed to provide yearly manager and server training as required by ordinance.

Roseville City Council will consider staff recommendation specific to this violation at its regular meeting scheduled for **Monday, November 14, 2011**. Council discussion of this violation will occur during the "Business Actions" segment of the meeting.

Finally, please be advised if another violation should occur, further penalties will be invoked. If you have any questions, you can reach me at my desk number of 651-792-7211 during normal business hours.

Sincerely,

Lorne Rosand  
Lieutenant

Cc: Rick Mathwig -- Chief of Police  
Bill Malinen -- City Manager  
Roseville City Council