



Request for Council Action

Date: 02/08/2010

Item Number: 12/c

Department Approval

A handwritten signature in black ink, appearing to be "Ant" followed by a stylized flourish.

Manager Approval

A handwritten signature in black ink, appearing to be "W. J. Mahinen".

Item Description:

Consider Presumptive Penalty Approval – Fuddruckers Alcohol Compliance Failure

Background

On April 9th, 2009, 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. Also in the letter were materials for an optional manager server training program and a list of City of Roseville approved training programs. Proof of the completed training by all employees selling or serving alcohol had to be submitted to the Roseville Police Department by or on May 9, 2009.

Compliance Failure

On December 28th, 2009, a Roseville Police Officer, along with an underage buyer, entered Fuddruckers to conduct an alcohol compliance check. The underage buyer approached the cashier and ordered a bottle of Corona Beer. The cashier asked the underage buyer for ID and the underage buyer provided the cashier with her real MN Driver License with the words "Under 21" stamped on the license directly over the photo. The cashier took the license, looked at it, and gave it back to the underage purchaser. The cashier then sold the underage buyer a bottle of Corona. The cashier was cited for the violation and released. Fuddruckers did not participate in an optional manager and server training program for 2009. This is Fuddruckers sixth documented failure with previous failures in 1998, 1999, 2001, 2005, 2007, and 2008.

Staff Recommendation

Issue and administer the presumptive penalty pursuant to City Code Section 302.15, for on-sale license holders who did not participate in optional manager and server training for a third violation in thirty-six (36) months, the mandatory minimum penalty shall be a one thousand dollar (\$1,000.00) fine and a five (5) day suspension.

Council Action Requested

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

Attachment: A. Reports and Correspondence



December 31, 2009

Fuddruckers
Roseville Foods LLC
Attn: General Manager
2740 Snelling Avenue North
Roseville, MN 55113

Dear 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 the amended ordinance is enclosed for your review. Please note Section 302.15, of the local ordinance, where minimum penalties are stipulated.

On November 29, 2009, an employee of your establishment, Danika Romano, sold an alcoholic beverage to a minor in violation of the attached ordinance. Our records indicate that your establishment did not participate in a city approved optional manager and server training program. City records also indicate your establishment had two previous violations in the past thirty-six (36) months, in August 2007 and October 2008. Therefore, pursuant to Section 302.15 of the Roseville City Code, the presumptive penalty for a third violation for on-sale license holders who did not participate in the optional manager and server training is a minimum penalty of a \$1,000.00 fine and a five (5) day suspension.

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 optional manager and server training program, and the history of compliance checks at your establishment. The City Council will consider this information at its regular meeting on February 8th, 2010.

A representative of your establishment may appear at that time 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 at 651-792-7204.

Sincerely,

Sergeant Joshua Arneson

Enclosure

cc: Acting Chief Rick Mathwig
City Council
Bill Malinen, City Manager

CHAPTER 302

LIQUOR CONTROL

SECTION:

- 302.01: Adoption of State Law
- 302.02: License Required
- 302.03: Application
- 302.04: License Fees
- 302.05: Ineligibility
- 302.06: Delinquent Taxes and Charges
- 302.07: Granting of License
- 302.08: Conditions of License
- 302.09: Hours of Sale
- 302.10: Evacuation of On-sale Establishments
- 302.11: Sale Outside of Structure on Licensed Premises
- 302.12: On-sale of Intoxicating Malt Liquor
- 302.13: Off-sale License Regulations
- 302.14: Prohibited Conduct
- 302.15: Civil Penalty

302.01: ADOPTION OF STATE LAW:

Except where inconsistent with this Chapter, the provisions of Minnesota Statutes, chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds and licenses, hours of sales and all other matters pertaining to the retail sale, distribution and consumption of non-intoxicating malt liquor, wine and intoxicating liquor are adopted and made a part of this Chapter as if set out in full. (Ord. 972, 5-13-85)

302.02: LICENSE REQUIRED:

- A. 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 non-intoxicating malt liquor or intoxicating liquor without a license to do so as provided in this Chapter.
- B. Types of Licenses:
 - 1. Intoxicating liquor licenses shall be of five kinds: On-sale, On-sale Wine, Club, Special Sunday and Off-sale.
 - 2. Non-intoxicating malt liquor licenses shall be of two kinds: On-sale and Off-sale.
- C. Expiration: All intoxicating liquor and non-intoxicating malt liquor licenses shall expire on December 31 of each year.
- D. On-sale Intoxicating Liquor Licenses: On-sale intoxicating liquor licenses shall be issued only to hotels and restaurants and shall permit On-sale of intoxicating liquor only, for consumption on the licensed premises only, in conjunction with the sale of food. For the purposes of this Chapter, the following definitions are adopted:
HOTEL: A hotel is any establishment having a resident proprietor or manager where,

in consideration of payment, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than 50 guest rooms with bedding and other usual, suitable and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests, which employs an adequate staff to provide suitable and usual service and which maintains, under the same management and control as the rest of the establishment and has, as an integral part of the establishment, a dining room of at least one thousand 1,800 square feet.

Such dining room shall have appropriate facilities for seating not less than one 100 guests at one time. Where the guest seating capacity is between 100 and 174, at least 50% of the gross sales of the restaurant portion of the establishment must be attributable to the service of meals. Where the seating capacity is 175 or more, at least 25% of the gross sales of the restaurant portion of the establishment must be attributable to the service of meals.

RESTAURANT: A restaurant is any establishment, other than a hotel, having appropriate facilities to serve meals, for seating not less than 100 guests at one time and where, in consideration of payment, meals are regularly served at tables to the general public and which employs an adequate staff for the usual and suitable service to its guests.

Where the seating capacity of the establishment is between 100 and 174, at least 50% of the gross sales of the establishment must be attributable to the service of meals.

Where the seating capacity is 175 or more, at least 25% of the gross sales of the establishment must be attributable to the service of meals.

- E. **On-sale Wine Licenses:** On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes 340A.404, subdivision 5, and shall permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. To qualify for a license under this subsection, a restaurant must have appropriate facilities for seating at least 25 guests at a time, regularly serve meals at tables to the public for a charge and employ an adequate staff. (Ord. 972, 5-13-85)
- F. **Club License:** Club licenses for the sale of intoxicating beverages to be consumed on the licensed premises may be issued to any clubs meeting the requirements of Minnesota Statute 340A.404, subdivision 1. (1995 Code)
- G. **Special License for Sunday Sales:** A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant or club which has an On-sale license. A special Sunday license is not needed for Sunday sales of wine license.
- H. **Off-sale Intoxicating Liquor Licenses:** Off-sale licenses for the sale of intoxicating liquor shall permit the licensee to sell intoxicating liquor in original packages for consumption off the premises only. Such licenses may be issued in accordance with the provisions of this Chapter.
- I. **On-sale Non-intoxicating Malt Liquor Licenses:** On-sale licenses shall permit the licensee to sell non-intoxicating malt liquor for consumption on the premises only.
- J. **Off-sale Non-intoxicating Malt Liquor Licenses:** Off-sale licenses shall permit the licensee to sell non-intoxicating malt liquor in original packages for consumption off the premises only. (Ord. 972, 5-13-1985)
- K. **Temporary On-sale Licenses:** Temporary On-sale licenses may be issued to a club or charitable, religious or nonprofit organization in existence for at least three years in connection with social events within the City, for up to three days in accordance with Minnesota Statutes section 340A.404, subdivision 10. (1995 Code)
- L. **Temporary On-sale License In Central Park:** Upon payment of the fee and submission of a completed application form, the City Manager is authorized to approve a temporary On-sale license for the sale and distribution of non-intoxicating malt liquor to a club, charitable, religious or other nonprofit organization in existence

at least three years, for such sale and distribution in Central Park only for a time not to exceed three consecutive days, provided the following conditions are met:

1. Insurance: Proof of liquor liability insurance in an amount equal to and in the form required by subsection 302.03C of this Chapter is filed with the application.
2. Security Plan: A security plan, approved by the Chief of Police, is filed along with the application.
3. Hours of Sale: In addition to the limitation on hours found elsewhere in this Code, the hours of sale shall be only during the time that Central Park is open to the public. Sales and distribution shall be located only in a shelter building or a temporary shelter, such as a tent, approved by the City Manager.

In the event the City Manager denies the application, for any reason, the applicant may appeal the decision of the City Manager to the City Council. (Ord. 1102, 9-23-1991)

- M. Intoxicating Liquors at The Roseville Skating Center Community Rooms:
Intoxicating liquor may be sold in the Roseville Skating Center Community Rooms only under the following conditions:
1. By the City-designated caterer for the Roseville Skating Center Community Rooms who shall hold retail On-sale intoxicating liquor license issued by the City or by an adjacent municipality.
 2. The caterer must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the Roseville Skating Center Community Rooms, and may dispense intoxicating liquor only to persons attending the event.
 3. The caterer delivers to the City a certificate of insurance providing "off premises" or "catered event" liquor liability coverage naming the City of Roseville, to the full extent of statutory coverage, as an additional named insured.
 4. All other rules and regulations established by the City relating to the sale or dispensing of intoxicating liquor in the Roseville Skating Center Community Rooms are complied with. (Ord. 1217, 12-14-1998)

302.03: APPLICATION:

- A. Requirements: The requirements set forth in this Section shall apply to applications for those licenses named in Section 302.02 of this Chapter.
- B. Form:
1. Information Required: Every application for a license under this Chapter shall state the name of applicant, applicant's age, presentations as to applicant's character, with such references as the City Council may require, applicant's 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 applicant has been in that business at that place and such other information as the City Council may require from time to time.
 2. Verification: In addition to containing such information, the application shall be in the form prescribed by the State Liquor Control Director and shall be verified and filed with the City Manager. No person shall make a false statement in an application.
 3. Subsequent Data: From time to time, at the request of the City Manager, a licensee will provide data to the City concerning that portion of its revenue attributable to the sale of food and the sale of liquor and/or wine. (Ord. 972, 5-13-1985)
- C. Liability Insurance:
1. Policy Limits: Prior to the issuance or renewal of a license under this Chapter, the applicant shall file with the City Manager a certificate of insurance in a form to be provided by the City covering liquor liability, loss of means of support and pecuniary loss in the amount of (\$500,000.00 of coverage because of bodily injury to any one person in any one occurrence; \$1,000,000.00 because of bodily injury to two or more

persons in any one occurrence; \$100,000.00 because of injury to or destruction of property of others in any one occurrence; \$200,000.00 for loss of means of support or pecuniary loss to any one person in any one occurrence; and \$500,000.00 for loss of means of support or pecuniary loss for two or more persons in any one occurrence.

2. Annual Aggregate Limits: Annual aggregate limits as provided by Minnesota Statutes section 340A.409 shall not be less than \$1,000,000.00.

In the event such policy provides for (\$1,000,000.00 annual aggregate limits, said policy shall further require that in the event that the policy limits are reduced in any given year because of the \$1,000,000.00 annual aggregate policy limit, the insurance carrier shall provide the City with written notice of said reduction in policy limits within 30 days of said reduction becoming effective. (Ord. 1175, 10-28-1996)

3. Further Requirements: After the reduction becomes effective, the City Council may require the licensee to take further action with regard to liability insurance in order to protect citizens of the City during the period of the reduced aggregate policy limit.

4. Applicability: The requirements of this Section shall be applicable to new licenses issued after the effective date of this subsection and for renewals applied for after the effective date of this subsection. (Ord. 1046, 9-12-1988)

D. Approval of Insurance: Liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City, at all times, a certificate of insurance as required in subsection C of this Section is a cause for revocation of the license. All insurance policies shall state that the City will be given ten days' notice, in writing, of cancellation. (Ord. 972, 5-13-1985)

E. Insurance Not Required: Subsection C of this Section does not apply to licensees who by affidavit establish that they are not engaged in selling any intoxicating or non-intoxicating malt liquor in Central Park and that:

1. They are On-sale 3.2 percent malt liquor licensees with sales of less than \$10,000.00 of 3.2 percent malt liquor for the preceding year;

2. They are Off-sale 3.2 percent malt liquor licensees with sales of less than \$20,000.00 of 3.2 percent malt liquor for the preceding year;

3. They are holders of On-sale wine licenses with sales of less than \$10,000.00 for wine for the preceding year; or

4. They are holders of temporary wine licenses issued under law. (Ord. 1175, 10-28-1996)

302.04: LICENSE FEES:

A. Annually: Annual license fee shall be as established by the City Fee Schedule in Section 314.05. (Ord. 1379A, 11-17-2008)

B. Fee:

1. Payment: \$500.00 of the On-sale intoxicating liquor and wine licenses and the entire license fee for all other licenses shall be paid at the time of application. The remaining balance, if any, shall be paid prior to the time of issuance of the license.

2. Refund: All fees shall be paid into the General Fund of the City. Upon rejection of any application for a license or upon the withdrawal of the application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant except where the rejection is for willful misstatement on the license application.

3. Proration: The fee for On-sale intoxicating liquor and On-sale wine licenses granted after the commencement of the license year shall be prorated on a monthly basis. The fee for On-sale non-intoxicating malt liquor licenses granted after the commencement of the license year shall be prorated on a quarterly basis.

4. Investigation: At the time of each original application for a license, except special

club, On-sale non-intoxicating malt liquor and Off-sale non-intoxicating malt liquor licenses, the applicant shall pay, in full, an investigation fee. The investigation fee shall be \$300.00. No investigation fee shall be refunded. (Ord. 972, 5-13-1985; amd. 1995 Code)

302.05: INELIGIBILITY:

No license shall be granted to any person made ineligible for such a license by state law¹. (Ord. 972, 5-13-1985)

302.06: 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. (Ord. 972, 5-13-1985)

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 of a corporate licensee is deemed a transfer of the license and a transfer of stock 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, all licensees and their managers, and all employees or agents employed by the licensee that sell or serve alcohol, shall attend and satisfactorily complete a city approved or provided liquor licensee training program. 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

¹ M.S.A. §340A.402.

reasons. (Ord. 1243, 11-27-2000)

302.09: HOURS OF SALE:

The hours for the sale of intoxicating or non-intoxicating liquor for consumption on the premises shall be those allowed under Minnesota Statute §340A.504. (Ord. 1290, 8-11-2003)

302.10: EVACUATION OF ON-SALE ESTABLISHMENTS:

- A. Thirty Minute Restriction: All patrons of an on-sale establishment selling intoxicating liquor or non-intoxicating malt liquor must vacate the premises within 30 minutes of the termination of sales by Minnesota Statute §340A.504. Any patron who remains on the licensed premises or any licensee or licensee's employee who allows a patron to remain on the licensed premises beyond the 30 minute limit is in violation of this subsection. (Ord. 1056, 3-16-1989) (Ord. 1290, 8-11-2003)
- B. Extension of Restriction for Sale of Food: If an on-sale establishment remains open for the sale of food beyond the 30 minute evacuation limit, all intoxicating liquor and non-intoxicating malt liquor must be secured within the 30 minute limit in such a manner as to prevent consumption. Any patron who consumes intoxicating liquor or non-intoxicating malt liquor on the licensed premises or any licensee or employee of licensee who allows such consumption or allows intoxicating liquor or non-intoxicating malt liquor to remain unsecured on the licensed premises beyond the 30 minute limit is in violation of this subsection. (Ord. 1056, 3-16-1989)

302.11: SALE OUTSIDE OF STRUCTURE ON LICENSED PREMISES:

The sale of wine and intoxicating liquors, pursuant to any of the licenses issued in accordance with this chapter, shall be limited to sale and consumption inside of a structure on the licensed premises, unless the licensee applies for and receives permission from the City Council for sale and consumption outside of a structure on the licensed premises by an endorsement to the license. Issuance of an outside sale and consumption endorsement shall be accomplished as follows:

- A. Application: The licensee shall make written application using forms provided by the city and there shall be a nonrefundable application fee of twenty five dollars (\$25.00) at the time of making application.
- B. Notice: The owners of all property adjacent to the licensed premises will be given written notice of the fact that such an application has been made and of the date and time of the City Council meeting at which the application will be considered by the City Council.
- C. Endorsement: The City Council may, in its discretion, issue such an endorsement or refrain from issuing such an endorsement and may impose conditions to the endorsement such as, but not limited to, screening, time of day limitations and noise limitations. (Ord. 972, 5-13-1985)

302.12: ON-SALE OF INTOXICATING MALT LIQUOR:

The holder of an on-sale wine license who is also licensed to sell non-intoxicating malt liquor and whose gross receipts are at least 60% attributable to the sale of food may sell intoxicating malt liquor at on-sale without an additional license. (Ord. 1021, 9-28-1987)

302.13: OFF-SALE LICENSE REGULATIONS:

In addition to the other requirements of state law or this chapter, the following regulations are applicable to off-sale intoxicating liquor licenses:

- A. Number of Licenses: The number of licenses which may be issued is ten.
- B. Use of License: If a license is not used within one year, the license shall automatically terminate.
- C. Size of Premises: A licensed premises shall have at least 1,600 square feet of sales floor space including sales coolers and excluding walk-in storage coolers.
- D. Considerations: In addition to the other requirements of this chapter and applicable state law in determining whether or not to issue an off-sale license for a particular premises, the City Council shall consider all relevant factors relating to the health, safety and welfare of the citizens of the city such as, but not limited to, effect on market value of neighboring properties, proximity to churches and schools and effect on traffic and parking.
- E. Delivery of Alcoholic Beverages; Identification Required: A person authorized to serve, sell, or deliver alcoholic beverages must determine through legitimate proof of identification that all deliveries of wine, beer, and alcoholic beverages are accepted only by eligible persons who are 21 years of age or older.
- F. Delivery Records: Upon any delivery of alcoholic beverages off the licensed premises, the seller, purchaser, and delivery recipient (if other than the purchaser) must sign an itemized purchase invoice. The invoice shall detail the time, date, and place of delivery. The licensee must retain the delivery records for a period of one year. The records shall be open to inspection by any police officer or other designated officer or employee of the city at any time. (Ord. 1243, 11-27-2000)

302.14: PROHIBITED CONDUCT:

- A. Policy: Certain acts or conduct on premises licensed pursuant to this chapter or licensed pursuant to Minnesota statutes, chapter 340A, are deemed contrary to public welfare and are prohibited and no license issued pursuant to this chapter or licensed pursuant to Minnesota statutes, chapter 340A, may be held or maintained where such acts or conduct is permitted. (Ord. 808, 11-21-1977)
- B. Prohibited Conduct: The prohibited acts or conduct referred to in subsection A of this section are:
 - 1. The employing or use of any person in the sale or service of beverages in or upon the licensed premises where such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
 - 2. The employing or use of the services of any host or hostess while such host or hostess is unclothed or in such attire, costume or clothing as described in subsection B1 of this section.
 - 3. The encouraging or permitting of any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
 - 4. The permitting of any employee or person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair or any portion thereof.
 - 5. The permitting of any person to perform acts of or acts which simulate:
 - a. With or upon another person, sexual intercourse, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. Masturbation or bestiality.
 - c. With or upon another person the touching, caressing or fondling of the buttocks, anus, genitals or female breast.
 - d. The displaying of the pubic hair, anus, vulva, genitals or female breasts below the top of the areola.
 - 6. The permitting of any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in subsections B5a through B5d of this section.

7. The permitting of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.
8. The permitting or showing of film, still pictures, electronic reproductions or other reproductions depicting:
 - a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
 - c. Scenes wherein a person displays the vulva, or the anus or the genitals.
 - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the activities described in subsections B1 through B7 of this section.
- C. Revocation of License: Any license issued pursuant to this chapter, licensed pursuant to Minnesota statutes, chapter 340A, shall be revoked if any of the acts of conduct described in this section occur on the licensed premises. (Ord. 808, 11-21-1977; amd. 1995 Code)

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)
- 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)

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

09034490 09034485

Date and Time of Report

12/29/2009 09:54:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Primary Reporting Officer: Gehrman, Jason

Name of location/business:

Primary squad: 2599

Location of incident: 2740 SNELLING DR

Secondary reporting officer:

ROSEVILLE, MN 55113

Approver: Marshall, Matthew

District: 2581

Date & time of occurrence: 12/28/2009 14:43:00 to

Site:

12/29/2009 14:53:00

Arrest made: Yes

Secondary offense:

Secondary MOC:

Police Officer Assaulted or Injured:

Police Officer Assisted Suicide:

Crime Scene Processed:

OFFENSE DETAILS

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Attempt Only:

Appears to be Gang Related:

ARRESTS**Cited**

Name: Romano, Danika Sharene Marie

Booking date: 12/28/2009

Date & time of arrest: 12/28/2009 14:43

Booking time: 14:43

Arrest made on view:

Booking #:

Arrest made on warrant or previous CN:

Warrant number:

Originating agency:

Warrant type:

Charge/Citation/Bail Amount: Sale of Alcohol to minor, admin citation#

NAMES**Arrestee**

Romano, Danika Sharene Marie

Nicknames or Aliases

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

09034490 09034485

Date and Time of Report

12/29/2009 09:54:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Details

Sex: Female	Race:	DOB:	Resident Status:
	Hispanic:	Age: 18 from to	

Phones

Home:	Cell:	Contact:
Work:	Fax:	Pager:

Employment

Occupation:	Employer: FUDDRUCKERS
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Identification

SSN:	License or ID#:	License State: MN
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Physical Description

US:	Metric:		
Height: to	Build:	Hair Length:	Hair Color:
Weight: to	Skin:	Facial Hair:	Hair Type:
Teeth:	Eye Color:	Blood Type:	

Offender Information

Arrested: Yes	Pursuit engaged:	Violated Restraining Order:
DUI:	Resistance encountered:	
Condition: Sober	Taken to health care facility:	Medical release obtained:

Other**Nicknames or Aliases**

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

Details

Sex: Female	Race:	DOB:	Resident Status:
	Hispanic:	Age: 20 from to	

Phones

Home: 000-000-0000	Cell:	Contact:
Work:	Fax:	Pager:

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

09034490 09034485

Date and Time of Report

12/29/2009 09:54:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Employment

Occupation:

Employer:

Identification

SSN:

License or ID#:

License State: MN

SOLVABILITY FACTORS

Suspect can be Identified: Yes

By: Police

Photos Taken: Yes

Stolen Property Traceable:

Evidence Turned In: Yes

Property Turned In:

Related Incident:

Lab

Biological Analysis:

Fingerprints Taken:

Narcotic Analysis:

Items Fingerprinted:

Lab Comments:

Participants:

Person Type:

Name:

Address:

Phone:

Arrestee

Romano, Danika Sharene Marie

Other

000-000-0000

NARRATIVE

On 12/28/2009 , (DOB: 08/27/1989) acted as my underage alcohol buyer. had previously viewed the underage buyer instructional video. was searched, and had only one valid ID.

It should be noted a digital photo of was taken, copied to a CDR and propertied under case number 09034485.

At approximately 1443 hours, entered Fuddruckers Restaurant and ordered a Corona Beer. Danika Sharene Marie Romano () served the Corona failing to properly check ID. I approached Romano and informed her of the violation. Romano stated "I thought she was old enough".

Romano was given admin citation# 20929 for underage sale (\$250.00). Fuddruckers management was informed they would be receiving follow up information in the mail.

The Corona bottle, a sample of it's contents and sales receipt were placed in PL# 6.

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number

Reference CN

Date and Time of Report

09034490

09034485

12/29/2009 09:54:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Nothing further

PUBLIC NARRATIVE

Alcohol compliance check.

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

07020311

Date and Time of Report

07/16/2007 18:47:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Primary Reporting Officer: Brake, Matthew

Name of location/business:

Primary squad: 2595

Location of incident: 2740 SNELLING AV N

Secondary reporting officer:

ROSEVILLE, MN 55113

Approver: Bauman, Timothy

District: 2581

Date & time of occurrence: 07/11/2007 19:40:00 to

Site:

07/11/2007 20:00:00

Arrest made: Yes

Secondary offense:

Secondary MOC:

Police Officer Assaulted or Injured:

Police Officer Assisted Suicide:

Crime Scene Processed:

OFFENSE DETAILS**LIQUOR LAW-FURNISHING LIQUOR TO A MINOR**

Attempt Only:

Appears to be Gang Related:

ARRESTS

Warrant number:

Originating agency:

Warrant type:

Charge/Citation/Bail Amount: Sell Alcohol To a minor

NAMES**Arrestee**

Requests non-public due to safety concerns

KNOWN**Nicknames or Aliases**

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

Date and Time of Report

07020311

07/16/2007 18:47:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Details

Sex: Female	Race:	DOB:	Resident Status:
	Hispanic:	Age: 16 from to	

Parent or Guardian

Parent

Phones

Home:	Cell:	Contact:
Work:	Fax:	Pager:

Employment

Occupation: SALES CLERK / REGISTER	Employer: FUDDRUCKERS
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Identification

SSN:	License or ID#:	License State:
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Physical Description

US:	Metric:		
Height: to	Build:	Hair Length:	Hair Color:
Weight: to	Skin:	Facial Hair:	Hair Type:
Teeth:	Eye Color:	Blood Type:	

Offender Information

Arrested: Yes	Pursuit engaged:	Violated Restraining Order:
DUI:	Resistance encountered:	
Condition:	Taken to health care facility:	Medical release obtained:

Other

Matiska, Clinton Scott

Nicknames or Aliases

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

Details

Sex: Male	Race:	DOB:	Resident Status:
	Hispanic:	Age: from to	

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

Date and Time of Report

07020311

07/16/2007 18:47:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Phones

Home:

Cell:

Contact:

Work:

Fax:

Pager:

Employment

Occupation: MANAGER

Employer: FUDDRUCKERS

Identification

SSN:

License or ID#:

License State:

Other

Rpd

MN

Nicknames or Aliases

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

Details

Sex:

Race:

DOB:

Resident Status:

Hispanic:

Age:

from

to

Phones

Home:

Cell:

Contact:

Work:

Fax:

Pager:

Employment

Occupation:

Employer:

Identification

SSN:

License or ID#:

License State:

Other

Nicknames or Aliases

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

07020311

Date and Time of Report

07/16/2007 18:47:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

Details

Sex: Male	Race:	DOB:	Resident Status:
	Hispanic:	Age: 19 from to	

Phones

Home:	Cell:	Contact:
Work:	Fax:	Pager:

Employment

Occupation:	Employer:
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Identification

SSN:	License or ID#:	License State:
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Parent/Guardian**Nicknames or Aliases**

Nick Name:

Alias:

AKA First Name:

AKA Last Name:

Details

Sex: Female	Race:	DOB:	Resident Status:
	Hispanic:	Age: from to	

Phones

Home:	Cell:	Contact:
Work:	Fax:	Pager:

Employment

Occupation:	Employer:
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Identification

SSN:	License or ID#:	License State:
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ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number Reference CN

07020311

Date and Time of Report

07/16/2007 18:47:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

SOLVABILITY FACTORS

Suspect can be Identified:

By:

Photos Taken:

Stolen Property Traceable:

Evidence Turned In:

Property Turned In:

Related Incident:

Lab

Biological Analysis:

Fingerprints Taken:

Narcotic Analysis:

Items Fingerprinted:

Lab Comments:

Participants:

Person Type:	Name:	Address:	Phone:
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Arrestee

Other	Matiska, Clinton Scott		
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Other	Rpd	MN	
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Other

Parent/Guardian

NARRATIVE

On 7/11/2007 I conducted alcohol compliance checks on multiple businesses in Roseville. At approximately 1940 hours I arrived at 2740 Snelling Avenue (Fuddruckers) with underage buyer (11/15/1987). I gave \$20.00 which was provided by RPD. and myself entered Fuddruckers.

approached the cash register and ordered a 12 oz. bottle of Corona beer. Register operator asked for his identification. provided his MN DL. took a hold of DL and looked at it for a moment. stated, "I am really bad at math." handed his DL back and charged him for a bottle of Corona. An unidentified employee handed a bottle of beer in presence.

I identified myself as a Roseville Police Officer and advised she had just sold alcohol to a minor.

Manager Clinton Mitiska was contacted on scene.

ORIGINAL OFFENSE / INCIDENT REPORT

Complaint Number

Reference CN

Date and Time of Report

07020311

07/16/2007 18:47:00

Primary offense:

LIQUOR LAW-FURNISHING LIQUOR TO A MINOR

Primary MOC:

M4102 LIQUOR - SELLING

I contacted mother, , and explained to her the situation. mother stated her daughter could be released on scene and stay at Fuddruckers.

advised me she has no training in looking at driver's licenses or running a cash register.

Case forwarded to juvenile investigator.

A copy of DL and a current photo can be found in the paperwork portion of the report.

Nothing Further.

PUBLIC NARRATIVE

Juvenile female arrested and released for selling alcohol to a minor