



TO: Mayor Shaun Sipma
Members of the City Council

FROM: Kelly Hendershot

DATE: March 26, 2019

SUBJECT: CHAPTER 5 (ALCOHOLIC BEVERAGES) REVISIONS

I. RECOMMENDED ACTION

A. The City Council approve the attached ordinance (Chapter 5 revisions), on first reading.

II. DEPARTMENT CONTACT PERSONS

Kelly Hendershot – (701) 857-4755
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III. DESCRIPTION

In the Fall of 2018, City staff formed an internal working group to review administrative processes relating to alcoholic beverage licenses and to determine if any clarifying or corrective changes should be made to the existing alcoholic beverage ordinances. The working group specifically avoided making recommendations on policy issues relating to alcoholic beverage licenses and limited the scope of review to administrative processes and correcting/clarifying existing language.

This group understands that some members of the City Council may want to consider an overhaul or significant modification of the current ordinances relating to alcoholic beverage licenses. If the City Council wants to move in that direction, City staff is hopeful that that will happen in a separate process and that the proposed revisions in the attached document can be considered at this time.

Here are the highlights of the revisions, as proposed:

A. Licensed Premises

The proposed amendments replace “premises” with “licensed premises” and implement the definition of “licensed premises” that is currently used under state law into the City’s ordinance.

This recommendation is a clerical modification proposed to provide consistence in the phrases used in state law.

B. Minors

The proposed amendments delete the “minors” definition and provide a definition for “twenty-one years of age.” The recommendation also replaces “minors” with “persons under twenty-one (21) years of age” throughout the ordinance.

This recommendation is a clerical modification.

C. Clarification of Food Sales

The proposed amendments replace “derives, on an annual basis, more income from the sale of food consumed on its business premises than it does from the sale of alcoholic beverages consumed on its business premises” with “shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.” The proposed language is consistent with the language in state law.

This recommendation is a clerical modification.

D. Clarification of Proof of Food Sales

The proposed amendments add the following language to the sections relating to food sales compliance: “At the option of the licensee, in lieu of a certified public accountant’s statement, licensee may furnish to the city clerk a certified copy of the licensee’s sales tax returns for the most recent 12-month period prior to renewal.”

This recommendation is a process modification that provides more flexibility to the license-holders.

E. Split Payment of License Fees

The proposed amendment eliminates the split payment of license fee section. This modification would make the process cleaner because (1) the City would not need to track split payments and re-notify license-holders; (2) the license-holders would not need to track another payment day or risk losing their license; and (3) the failure to pay in a timely fashion would not create an issue that would require the City to “cancel” the license (which could result in further complications relating to the capped liquor licenses).

This recommendation is a process modification that benefits the City and license-holders.

F. License Term

The proposed amendment modifies the term from July 1 through June 30 to January 1 through December 31. This modification would be consistent with the state’s alcoholic beverage license, so the license-holders could do the renewal paperwork for both licenses at the same time. The proposed language provides a transition period for the first term which would be July 1, 2019 through December 31, 2020. With that, beginning January 1, 2021, the annual term would be fully modified. At that time, staff will recommend an ordinance amendment to eliminate the transition period language in an effort to keep our ordinances clear and concise.

This recommendation is a process modification.

G. Timeframe for Submission of Initial or Renewal Application

This proposed amendment provides a timeframe in which the City Clerk shall submit the application for initial license or renewal license to the City Council for review. Our ordinances currently provide the following process: (1) submission of application and payment of fee; (2) inspections by Building Official and Fire Marshall and review by Chief of Police; (3) submission of reports to City Clerk; (4) entire application, with reports, to City Council.

How the process currently works, however, is that the City Clerk will send initial licenses or renewal licenses through without the other steps finalized and the City Council will approve the licenses, contingent on the additional requirements being completed. City staff believes this is problematic because the City Council is making decisions without a complete picture.

City staff believes the ordinances provide an appropriate process and that setting the timeframe will allow staff to conduct its review of the application and premises, as required by the ordinance, and to provide the complete application with all of the reports to the City Council; the timeframe, however, will require staff efficiency in reviewing the applications.

This recommendation is a process modification that benefits the City Council and license-holders.

H. Outdoor Seating Clarification

This proposed amendment specifies that license-holders can have a gate, which can be used for entering or exiting the outdoor portion of the premises.

This recommendation is a clarification of the current ordinance.

I. Special Event Permits

1. Auditorium

This proposed amendment changes the process for event permits at the auditorium. Currently, the City Manager grants permission for events at the auditorium, but the proposed amendment makes the process consistent with the special event permit process.

This recommendation is a process modification.

2. Application Due Date

This proposed amendment sets a timeframe in which special event permit applications must be submitted to the City Clerk. City staff feels it is appropriate to set some application deadline to allow for appropriate review of the requests.

This recommendation is a process modification.

3. Policing of Special Events

This proposed amendment incorporates the current policy of the Police Chief into ordinance. Currently, the Police Chief relies on state law to require, when necessary, the policing of special events. This proposed modification incorporates that into our ordinance for clarification.

This recommendation is a process modification.

In an effort to keep all of the current license-holders informed, the City Clerk sent out the attached letter to all licensees. The letter highlighted the changes and informed the license-holders that the issue would be considered by the City Council at the April 1, 2019 regular City Council meeting.

If the City Council moves forward with the proposed amendments to the ordinances, our internal working group has worked with the Public Information Office to ensure the general public will be informed of the changes. If approved, our PIO plans to amend the City's website page relating to licenses and issue a website article reflecting the ordinance changes (which will also be included in the City newsletter).

Lastly, if the proposed ordinances are approved by the City Council, the City Clerk intends to send out the attached letter (draft form letter attached) to inform all of the current license-holders of the process changes and due dates for current license renewal applications.

IV. IMPACT:

The proposed updates to the ordinances will improve the process relating to initial license applications and renewal license applications. The proposed updates will also simplify the process for license-holders as the term will be consistent with the State's term.

V. ALTERNATIVES

As indicated previously, City staff is hopeful that the proposed revisions will be considered at this time and not delayed in an effort to consider an overhaul of the current ordinances relating to alcoholic beverage licenses. The scope of the internal group was limited to reviewing and revising administrative processes and correcting/clarifying existing language. If the City Council wants to move forward with an overhaul ordinance, City staff suggest approving the proposed amendments and moving forward with the other revisions in a separate process.

However, the City Council can amend the proposed ordinances or reject the proposed amendments.

VI. TIME CONSTRAINTS

The current term ends on June 30, 2019; the next term begins July 1, 2019. Because of the language modifying the term, if the City Council wants to move forward with the change as currently written, it should do so before the expiration of the current term.

VII. LIST OF ATTACHMENTS

- A. Chapter 5 Proposed Ordinance
- B. Letter Sent Informing License-Holders of Proposed Changes
- C. Draft Letter to be Sent if Changes Approved