

ITEM #: 48
DATE: 06/13/23
DEPT: Police

COUNCIL ACTION FORM

SUBJECT: SETTLEMENT AND 8-MONTH LIQUOR LICENSE RENEWAL FOR OUTLAWS, 2522 CHAMBERLAIN STREET

BACKGROUND:

In November 2022, the City Council declined a request to renew a Class “C” liquor license for Outlaws. At that time, the establishment had failed compliance checks on March 25, 2021 and October 20, 2022.

The Police Department conducts compliance checks on establishments that hold liquor licenses in the city. These checks are completed by taking an underage person to liquor licensed establishments who then attempts to purchase alcohol. A business passes the check if the employee asks for identification and rightly refuses the purchase. An establishment fails the compliance check if the employee sells to the underage person.

In addition to Outlaws failing the compliance checks, in the previous 12 months, Ames officers cited 15 individuals for being on-premises underage, six of whom officers were able to verify used a fake ID to gain entrance. **Most troubling, was evidence through text messages that employees, including a manager, were colluding to allow minors to enter.**

Since the denied renewal, the establishment has filed an appeal with the Alcoholic Beverage Division (ABD). While this appeal is pending, Outlaws has continued to operate under its previous license, except for a 30-day suspension issued by ABD as required by law for the second failed compliance check in a two-year period.

RECENT DEVELOPMENTS:

Following the November 2022 denial of license renewal by the City, Outlaws has passed two compliance checks (March 9, 2023 and May 4, 2023). and no minors have been found on-premises.

While the license revocation process is pending before ABD, City staff was approached by the liquor license holder to discuss a potential settlement (see attached settlement). The establishment has provided staff with the following list of changes to operations since November:

- Executed a Code of Conduct which is now included in the Outlaws employee handbook. The Code of Conduct requires, in part, an attestation from every employee stating that they will immediately notify management if they witness or are asked to participate in any illicit activities of any kind.

- Outlaws is now managed by an individual with significant experience in the industry and is well regarded for his integrity and ability. This individual is highly knowledgeable and skilled in compliance with Iowa law regarding Alcoholic Beverage Control.
- The official job duties of the Manager position have been updated to require the Manager to significantly increase the amount of time and effort they must spend monitoring the front door and exits to ensure no underage individuals are allowed entry.
- The job responsibilities of the employees in charge of checking and monitoring IDs have been completely overhauled. Only two designated employees are allowed to be working the front door on any given night. Those two employees receive substantially higher wages than the other employees and are required to attend management meetings in person every Monday. They are also required to attend every police ID meeting and are to receive a monetary bonus at the end of every month if the Ames Police department certifies zero minors have been allowed entry that month. These employees receive no bonus if even one minor is allowed entry into the bar in any given month. These employees are further subject to termination if more than one minor per month is identified to have been allowed in the bar by the Ames Police Department.
- Hand ID scanners are now utilized at the front door. The door staff is required to scan 100% of the IDs that are used to enter the bar. These scanners document every ID used and are captured in the scanner's memory. The scanners and their encoded memory are always to be made available to the Ames Police Department to assist with their efforts to ensure no fraudulent IDs are being utilized.
- Outlaws now conducts monthly all-staff meetings to communicate monthly progress regarding compliance with all applicable Alcoholic Beverage Control laws. Through these meetings, the entire staff is continually made aware of the importance of following the law and is repeatedly trained on all relevant job duties needed to ensure compliance.
- Outlaws now conducts in-house "sting operations" to audit its patrons. The Regional Manager, Brad Temple, conducts both announced and unannounced visits during both busy and less busy times to ensure the Manager has staffed according to procedure, is in position to properly supervise the key areas of the bar, and accompanies the Manager in asking customers at random for their IDs.

The proposed settlement contains a two-pronged approach in exchange for an approved 8-month license: The first prong contains the preventative measures Outlaws has outlined above. The second prong contains additional remedies that the City could implement for a failure to maintain compliance. Therefore, in addition

to the preventative measures outlined above, five remedies would be enacted for this renewal:

- 1. Failure of any compliance check during the 8-month license period will result in initiation of revocation proceedings.**
- 2. If five or more minor on-premises violations are issued at Outlaws in a 24-hour period, a report will be made to the Ames City Council regarding the number of violations.**
- 3. Any other serious violations that occur on the premises will also be reported to the Ames City Council.**
- 4. Ames City Council has the authority to suspend a license, revoke a license, or impose a civil penalty for violations of Iowa Code Chapter 123 and/or violations of the Ames Municipal Code.**
- 5. If City staff observes that the changed business practices are not being maintained a report will be made to the City Council to consider taking action on the license.**

The Council should note that an action to revoke a liquor license is a serious consequence. The revocation applies to the physical address of the establishment and not the establishment itself. No liquor license may be issued for that physical address for a period of two years regardless of who owns/manages the establishment, which prevents names and/or ownership changes from taking place as a strategy to avoid the revocation.

If the City Council declines to settle with Outlaws, the case concerning the Council's November 2022 denial of the requested license renewal will proceed to the ABD administrative revocation hearing. It may continue through the administrative process which includes initial hearing by an ABD officer, appeal to the Director of ABD and further appeals to District Court.

ALTERNATIVES:

1. Approve the following actions related to Outlaws, 2522 Chamberlain Street:
 - a. Accept the attached settlement agreement.
 - b. Issue an 8-month Class "C" liquor license.
2. Do not authorize a settlement and await the outcome of the appeal process being pursued by Outlaws.

CITY MANAGER'S RECOMMENDED ACTION:

Since the denial of a 12-month liquor license in November 2022, Outlaws has made several changes to its business operations and there have been no further violations since that time (including no on-premises violations and passing two successful compliance checks).

In addition, a settlement with Outlaws would allow the establishment to obtain an 8-month license in exchange for performing the preventative efforts mentioned above. Staff believes the proposed terms have a high likelihood of achieving the compliance that is expected of a license holder. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 A & B, as noted above.