

COUNCIL ACTION FORM

SUBJECT: LIQUOR LICENSE RENEWAL – NEIGHBORHOOD LIQUOR AND SMOKES, 3505 LINCOLN WAY, SUITE 105

BACKGROUND:

Neighborhood Liquor and Smokes, located at 3505 Lincoln Way, Suite 105, has applied for a renewal of its Class E Liquor License with Class B Wine Permit, Class C Beer Permit (Carryout Beer), and Sunday Sales Privilege. These state licenses and permits must receive approval by the local authority (City Council), before they can be issued by the state.

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

The Police Department conducted one such compliance check at Neighborhood Liquor and Smokes on March 26, 2021. The employee of Neighborhood Liquor and Smokes sold alcohol to an underage person during the check and was cited.

The Police Department conducted another compliance check on February 11, 2022, and an employee sold alcohol to the underage minor. On May 15, the Iowa Alcoholic Beverages Division (ABD), suspended the establishment's license for 30 days for a second violation in less than two years and fined the business \$1,500 as prescribed in Iowa Code 123.50(3)(b).

The Police Department conducted a follow-up compliance check on October 20th, 2022, when an employee again sold alcohol to a minor. This is the third violation within three years and Iowa Code 123.50(3)(c) prescribes a 60-day suspension and \$1,500 fine. This suspension and fine will be imposed on the establishment by ABD regardless of whether the City Council chooses to approve or deny the requested renewal.

In addition to the three compliance check failures, the Police Department has received complaints from citizens, mostly parents, complaining that the business has sold alcohol and tobacco/vaping products to their underage children. While the Police Department has not been able to substantiate each complaint, the complaints tend to corroborate the staff's observations made during compliance checks.

In the event that the City Council denies the requested license renewal, the denial can be appealed, first to the ABD, then to an Administrative Law Judge, then the Director of ABD, and then District Court. Filing an appeal with ABD places a stay on the denial, and the establishment is allowed to continue to operate until the appeal process is complete. **If the appeal(s) are not successful, alcohol may not be sold on the premises for one year, or until a new licensee applies for and is granted a new liquor license.**

ALTERNATIVES:

1. Deny the application for a 12-month liquor license renewal.

If this alternative is approved, the establishment still will be subject to a fine by the state of Iowa.

2. Approve the application for a 12-month liquor license renewal.

If this alternative is approved, the establishment still will be subject to the 60-day suspension and fine by the state of Iowa at some point during the renewal period.

3. Deny the application for a 12-month renewal, but entertain a future application for a 6-month renewal should it be applied for and come before Council.

If this alternative is approved, the establishment still will be subject to the 60-day suspension and fine by the state of Iowa at some point during the renewal period.

CITY MANAGER'S RECOMMENDED ACTION:

Compliance checks are conducted by the Ames Police Department and ABD to ensure liquor license holders are complying with their obligation to ensure underage individuals are not being sold alcohol. These compliance checks require the establishment to exercise a minimal level of due diligence in order to pass. In order to comply, the establishment must simply ask the customer for identification, confirm the age of the customer as being less than 21, and deny the sale.

The applicant, Neighborhood Liquor and Smokes, has failed three such compliance checks in nineteen months. A fine and suspension from ABD along with citations from the Ames Police Department have not resulted in a change in practices. Staff does not have confidence that the staff of this establishment will comply with the requirements for holding an alcoholic beverage control license. The Police Chief recommends a denial of the applicant's request for a license renewal.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, as described above.