ORDINANCE NO. 5880

AN ORDINANCE TO ALLOW REMOVAL OF A PARTIALLY CONSUMED BOTTLE OF WINE FROM THE PREMISES OF CERTAIN ALCOHOLIC BEVERAGE LICENSEES BY AMENDING SECTION 5.12.080 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City has enacted an ordinance prohibiting the possession of alcoholic beverages in unsealed or open containers in public places; and

WHEREAS, the Legislature has amended state law to allow customers of alcoholic beverage licensees authorized to sell wine on-sale to carry out a partially consumed bottle of wine from the licensed premises; and

WHEREAS, the Common Council finds it is in the best interests of the City of Rapid City to amend the open container ordinance to allow the practice permitted by state law.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 5.12.080 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

5.12.080 Consuming, mixing or possession of alcoholic beverages in public places.

A. It is unlawful for any person to consume any intoxicating liquor or malt beverage or to mix or blend any alcoholic beverage with any other beverage, regardless of whether the beverage is an alcoholic beverage, in any public place, other than upon the premises of a licensed on-sale retailer where the alcoholic beverage was purchased from the dealer for on-sale purposes.

B. It is unlawful for any person to possess an alcoholic beverage, in an unsealed container or in an open receptacle, in any public place other than upon the premises of a licensed on-sale retailer where the alcoholic beverage was purchased from the retailer for on-sale purposes.

C. Nothing in this section shall be construed to prohibit the sale of consumption of malt beverages on the licensed premises of a park concessionaire as long as the malt beverages are purchased from the concessionaire.

D. Notwithstanding subsections A., B., and C., the City Council may authorize consumption of blending of alcoholic beverages in a public place, but not the sale of the same, in or upon property described by the City Council, which property is publicly-owned, or owned by a nonprofit corporation. The authorization shall not exceed 24 hours and hours of consumption shall not exceed those permitted for on- sale licensees.

E. A licensee that is licensed to sell wine on-sale may permit a customer to carry out the unconsumed portion of a bottle of wine if the customer purchased the bottle of wine from the licensee and consumed a portion of it with a meal that was prepared and served by the licensee at

a table on the licensed premises. The licensee shall securely reseal the bottle of wine with a cork or other similar cap and place the bottle in a sealed bag or other container. The licensee shall also attach a receipt for the meal and the wine to the bag or container. A bottle of wine that is recorked and sealed as provided in this subsection is not a violation of the provisions of subsection B. if the cork and the seal have not been disturbed.

F. A licensee that is licensed to sell wine on-sale may permit a customer to bring a sealed and unopened bottle of wine onto the licensed premises for consumption by the customer while eating a meal that was prepared by the licensee and that was served at a table on the licensed premises. The licensee may charge a corkage fee for serving wine supplied by a customer. Consumption of wine pursuant to this subsection is not a violation of subsection A. The customer may carry out the unconsumed portion of the bottle of wine if it is securely resealed by the licensee as provided in subsection E. Such resealed bottle is not a violation of subsection B. if the cork and seal have not been disturbed.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

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