



CITY OF RAPID CITY

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MEMORANDUM

TO: Mayor and City Council

FROM: Carla Cushman, Assistant City Attorney *CC*

DATE: May 7, 2018

RE: Changes in alcohol licenses based upon 2018 legislation

This year's list of "new" alcohol license applications that are set for hearing will include businesses which have current alcohol licenses. I write this memo to explain why.

The 2018 South Dakota legislature passed several bills which made extensive changes to the alcohol statutes found in SDCL Title 35. One of the bills, HB 1070, simplified the types of alcohol licenses which are available. Specifically, the legislature repealed three types of licenses:

BW – on-off sale malt beverage and on-off sale South Dakota farm wine license, *SDCL 35-4-2(20)*;

PB – off sale malt beverage license, *SDCL 35-4-2(17)*; and

PF – off sale malt beverage and off sale South Dakota farm wine license, *SDCL 35-4-2(17A)*.

At the same time, the legislature broadened the RB license for on-off sale malt beverages to include on-off sale South Dakota farm wine, in effect capturing four licenses into one license. *SDCL 35-4-2(16)*. The RB license is now the only malt beverage license available. Direction was given by the SD Department of Revenue that licensees with a BW, PB, and PF license are to apply for an RB license, and this license application is to be treated as a new license, not a renewal. Because new licenses require a public hearing, while renewals do not, the Council will see a much longer list of additional new license applications for retail malt beverage licenses, and

this list of “new” licenses will include many businesses which held licenses in categories that were repealed.

These changes also mean that licensees who previously had only an off-sale license now will apply for an RB license, which is for both on-sale and off-sale. Staff are communicating with licensees to clarify that any on-sale use within the City requires a conditional use permit under RCMC Title 17. So, please be assured, that even if a business is issued an on-off sale RB license, in order to utilize the on-sale provisions of the license, the business would need to apply for and obtain a conditional use permit from the City.

The changes to the law made during the 2018 South Dakota legislative session are effective July 1, so you will soon see updates to RCMC 5.12 Alcoholic Beverages that incorporate the 2018 changes in state law. If you have any further questions, please contact me at 394.4140 or email me at carla.cushman@rcgov.org or contact Heidi Weaver-Norris at the Finance Office.