

AN ORDINANCE AMENDING SECTION 5.12.080 AND ADDING SECTION 12.20.110 OF THE RAPID CITY MUNICIPAL CODE REGARDING THE CONSUMPTION, MIXING OR POSSESSION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES

WHEREAS, the City of Rapid City has the power to enact ordinances, enforce its ordinances, and exercise jurisdiction over all territory within its corporate limits for the purpose of promoting the health, safety, morals, and general welfare of the community pursuant to state statute, including but not limited to SDCL 9-29-1 and SDCL Title 9 generally; and

WHEREAS, the South Dakota Legislature has given the governing body of a municipality the power to permit the consumption, but not the sale, of any alcoholic beverage on property owned by the public or by a nonprofit corporation within the municipality's jurisdiction pursuant to SDCL 35-1-5.5; and

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

WHEREAS, there is an exception to this ordinance if the City Council authorizes the consuming, mixing, or possession of alcoholic beverages in unsealed or open containers in or upon property described by the City Council; and

WHEREAS, the Common Council finds it is in the best interests of the City of Rapid City to amend Section 5.12.080 of the Rapid City Municipal Code to clarify and simplify some of the language and to authorize consuming, mixing or possession of alcoholic beverages in public places through special event permits; and

WHEREAS, the Common Council finds it is in the best interests of the City of Rapid City to enact a new section authorizing consuming, mixing or possession of alcoholic beverages in public places through special event permits; and

WHEREAS, the City of Rapid City finds that amending Section 5.12.080 and enacting a new section is in the best interests of the health, safety, and welfare of its citizens.

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~~alcoholic 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 or consumption of ~~malt~~alcoholic beverages on the licensed premises of a ~~park concessionaire as long as the malt beverages are purchased from the concessionaire~~licensee that has a special event alcoholic beverage license to sell the alcoholic beverages on the designated premises pursuant to Section 5.12.035 of the Rapid City Municipal Code and the alcoholic beverages are purchased from the licensee.

D. Notwithstanding subsections A., B., and C., ~~the City Council~~ a special event permit obtained pursuant to Chapter 12.20 of the Rapid City Municipal Code may authorize the consumption of blending, mixing or possession of alcoholic beverages in unsealed containers in a public place, but not the sale of the same, in or upon property ~~described by the City Council~~specified in the special event permit, 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.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 12.20.110 be and is added to the Rapid City Municipal Code to read in its entirety as follows:

12.20.110 Special event permit authorizing consuming, mixing or possession of alcoholic beverages in public places.

A. In an application for a special event permit, an applicant may apply for the authorization of the consumption, mixing, or possession of alcoholic beverages in unsealed containers in a public

place by the special event attendees. The applicant who applies for such authorization shall submit a nonrefundable fee for the authorization request, to be set by resolution of the Common Council, with the application for the special event permit. This fee shall be in addition to any other special event permit fees required. The applicant shall specify the requested authorization area in the detailed event site plan. The city officials reviewing authorization requests may consider the following information regarding the proposed special event and the requested authorization area: location, size, date, anticipated maximum number of attendees, public safety, and any other information relevant to the proposed special event and requested authorization.

B. If the consumption, mixing, or possession of alcoholic beverages in unsealed containers by the special event attendees is authorized, it may be authorized under any set of provisions, terms or conditions and for an area smaller, larger, or different from the requested authorization area. The authorization area shall be limited to a mapped-out area as specified in the special event permit. A copy of the authorized, mapped-out area shall be posted in a conspicuous location at the special event. Consumption, mixing, or possession of alcoholic beverages in unsealed containers outside of the authorized, mapped-out area is unlawful pursuant to Section 5.12.080 of the Rapid City Municipal Code.

C. If the consumption, mixing, or possession of alcoholic beverages in unsealed containers by the special event attendees is authorized, it does not authorize the sale of the same. The authorization shall be limited to the hours of the special event as specified in the special event permit; however, the authorization shall not exceed 24 hours, and hours of consumption shall not exceed those permitted for on-sale licensees.

D. The authorization under this section may be revoked by the city official issuing the permit or his or her designee in the following circumstances:

1. The violation by the permittee of any applicable provisions, terms or conditions of the authorization or of state law or city ordinance;

2. The consumption of alcoholic beverages at the special event is causing or is expected to cause physical damage to persons or property;

3. The consumption of alcoholic beverages at the special event is interfering or will interfere with fire or police protection, or an emergency arises making it impossible to assign necessary personnel to the special event needed to protect the public safety;

4. The consumption of alcoholic beverages at the special event is creating or threatening to create a health or safety hazard;

5. Information is obtained after the authorization in the special event permit is issued from which the city may reasonably conclude that the authorization should have been denied;

6. The city finds that the insurance required by § 12.20.100 has lapsed or has been cancelled;

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: