ORDINANCE NO. 5879

AN ORDINANCE TO ESTABLISH A COMPETITIVE BIDDING PROCESS FOR THE SALE OF OFF-SALE PACKAGE LIQUOR LICENSES BY AMENDING SECTION 5.12.030 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City is authorized to license dealers in off-sale package alcoholic beverages; and

WHEREAS, state law limits the number of off-sale dealer licenses that the City can issue; and

WHEREAS, currently, the City has issued the maximum number of off-sale dealers licenses allowed by law; and

WHEREAS, from time to time, off-sale dealers licenses are not renewed and become available for issuance to another person; and

WHEREAS, state law requires that the initial fee for the off-sale dealer be no less than $500; and

WHEREAS, the City Finance Office receives inquiries about available off-sale dealer licenses sporadically throughout each year; and

WHEREAS, the City Finance Office does not track or record persons interested in the licenses or the order in which such interest is made known; and

WHEREAS, the Common Council finds that an open, competitive bidding process is a fair and equitable way to determine to whom available off-sale dealer licenses shall be issued; and

WHEREAS, the Common Council finds it is in the best interests of the City of Rapid City to amend its ordinances to establish a competitive bidding process for available off-sale dealers licenses.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 5.12.030 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

5.12.030 Alcoholic beverages, malt beverages and wine license requirements and fees.

A. The following classifications and fees are established for on-sale dealers in distilled spirits, wines, and malt beverages:

Class of License	Initial Fee	Renew al Fee
1. On-sale dealer: Any person who sells or keeps for sale any alcoholic beverage, other than pursuant to another license under this chapter, for consumption on the premises where sold	$100,000	$1,500
2. On-sale dealer (full- service restaurant)	Market price as set by City Council	$1,500
3. Convention facility on-sale dealer: A hotel or motel convention facility used and kept open for the hosting of large groups of guests for compensation with at least one hundred lodging rooms and convention facilities seating at least four hundred persons	$100,000	$1,500
4. Municipal auditorium on-sale dealer: A municipal auditorium operated pursuant to SDCL ch. 9-52	$100,000	$1,500
5. Off-sale dealer: Any person who sells or keeps for sale any alcoholic beverage for consumption off the premises where sold	An amount not less than $500 as determined pursuant to Subsection C.	$500
6. Malt beverage retailer: Any person who sells or keeps for sale, other than resale, malt beverages as both package dealers and on- sale dealers	$300	$300
7. Off-sale malt beverage package dealer: Any person who keeps for sale or sells malt beverages for consumption off the premises where sold	$200	$200
8. Off-sale malt beverage and off-sale South Dakota wine package dealer: an off-sale malt beverage package dealer who also keeps for sale or sells wines produced pursuant to SDCL chapter 35-12 for consumption off the premises where sold	$225	$225
9. Wine retailers, being both package dealers and on-sale dealers	$500	$500
10. Malt beverage retailer and South Dakota wine retailers: Any person who	$325	$325

sells or keeps for sale malt beverages and wines produced pursuant to SDCL chapter 35-012 as both package dealers and on-sale dealers		

B. An off-sale license may be authorized for premises where the sale of liquor constitutes less than 40% of the gross business transacted on the premises, provided that:

1. The area in which liquor is displayed for sale is located within a building located on the premises and is separated from the remaining premises by partitions or walls at least 7 feet in height, and that the liquor area shall be physically closed during times when off-sale service is prohibited by the South Dakota Liquor Control Law;

2. Store personnel shall be physically present within the confines of the Liquor Sales Department at all times it is open to the public; and

3. The licensee shall not permit any person less than 21 years old to loiter in the liquor display and sale area.

C. Off-sale dealer licenses, when they become available, shall be issued according to the following policy:

1. The Finance Office shall cause to be published a Notice of Public Sale at least twice in a legal newspaper with general circulation in the area, with the first publication not less than ten days prior to the date of the sale. The notice shall state that an off-sale dealer license is to be sold by sealed bids, the time, date and place for the opening of bids, and that bids shall be made on a form available from the Finance Office. The notice shall also state that the City reserves the right to reject any or all bids, and that a bidder must conform to the requirements of state law and city ordinance to qualify as an alcoholic beverage licensee.

2. Sealed bids shall be made using a form provided by the Finance Office, and shall be filed with the Finance Office prior to the time and date specified in the notice. Each bid shall be required to contain a completed Uniform Alcoholic Beverage License Application in addition to the bid form.

3. The person or firm providing the highest bid shall be notified in writing of their conditional award. The issuance of the license shall be conditioned upon the eligibility of the person or firm to hold the license, suitability of proposed premises upon which alcoholic beverages will be sold, active use of the license within 90 days of issuance, and compliance with all other state law and city ordinance requirements, including but not limited to applicable zoning, building, and property maintenance codes. The Common Council reserves the right to stipulate such other and further conditions for issuance of the license as may be necessary and proper.

4. If the highest bidder does not meet all conditions of Subsection C.3. above within 90 days, the second-highest bid may be conditionally accepted in the same manner as the highest bid.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

First Reading:	November 19, 2012
Second Reading:	December 3, 2012
Published:	December 8, 2012
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