

PURCHASING AND LICENSING COMMITTEE

10-0071R

RESOLUTION IN THE MATTER OF THE OFF SALE INTOXICATING LIQUOR LICENSE OF BUNSIE, INC. (SPIRIT BOTTLE SHOPPE), 5801 GRAND AVENUE.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On December 2, 2009, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Bunsie, Inc., d/b/a Spirit Bottle Shoppe, 5801 Grand Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. _____;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on February 8, 2010, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. _____ regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of Bunsie, Inc., d/b/a Spirit Bottle Shoppe, 5801 Grand Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the city council impose a \$600 civil penalty payable within 60 days of final council action.

Approved as to form:

Attorney

CLERK JJC:mao 1/27/2010

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission (AGTC) held a hearing on December 2, 2009, regarding the liquor license of Spirit Bottle Shoppe. On May 4, 2009, the police department conducted an alcohol compliance check and an employee of the licensee sold intoxicating liquor to a person under the age of 21 which is in violation of City Code and state law. Section 8-34 of City Code provides that the licensee is responsible for the conduct of its place of business. This licensee was previously disciplined in August 2007 for a similar violation that occurred in 2006. The AGTC decided that aggravating factors exist which justify an upward departure from the presumptive penalty of \$500. The licensee was granted a conditional off sale license allowed by the State which reduces the license fee by \$100. The conditional license is based on the agreement that the licensee would post a policy requiring identification checks for all persons appearing to be 30 years old or younger. Spirit Bottle Shoppe has posted an age verification policy, however, the licensee failed to ask the underage person for identification and therefore did not enforce its own posted policy which is a specific condition of his conditional license. The AGTC is recommending a \$500 fine plus an additional \$100 for the violation of the licensee's posted policy. Payment of the \$600 penalty is payable within 60 days of final council action with no portion stayed.