

CITY OF DULUTH  
ALCOHOL, GAMBLING AND TOBACCO COMMISSION

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**REPORT TO THE CITY COUNCIL**

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**IN THE MATTER OF: Joel's LLC d/b/a Mexico Lindo, 600 East Superior Street Suite #201, Duluth, Minnesota 55802**

The above-entitled matter came on for hearing before the Duluth Alcohol, Gambling and Tobacco Commission on September 4, 2019, in the City Council Chambers in Duluth, Minnesota. The hearing record closed on September 4, 2019 upon completion of the hearing.

Deputy City Attorney Steven B. Hanke appeared on behalf of the City licensing staff. Attorney Andrew Poole and Managers Felipe Mata and Lorena Velez appeared on behalf of Licensee.

This Report is a recommendation, not a final decision. The Duluth City Council will make the final decision after a review of the record, which may adopt, reject or modify the Findings of Fact, Conclusion and Recommendations contained herein. Pursuant to Minn. Stat. §14.61, the final decision of the Council shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by the Report to file exceptions and present argument to the City Council. Parties should contact the City Clerk to ascertain the procedure for filing exceptions or presenting argument.

**FINDINGS OF FACT**

The commission makes the following findings of fact.

1. Licensee is licensed by the City of Duluth to sell intoxicating liquor "on-sale" at the premises located at 600 East Superior Street, Suite #201, Duluth, Minnesota 55802.
2. An employee of Licensee sold alcoholic beverages on the premises to two persons under the age of 21 at approximately 4:00pm on Thursday, July 27, 2019 in

- violation of Duluth City Code Section 8-28 (*Sales to minors prohibited*).
3. The employee was issued a citation for said violation and pled guilty by paying the \$200 fine.
  4. The Licensee was also issued citation for its employee's violation pursuant to Duluth City Code Section 8-35 (*Licensee liable for unauthorized sales*).
  5. The Licensee pled guilty for said violation by paying the \$200 fine.
  6. This is the Licensee's first violations for purposes of the presumptive penalty schedule provided for in Duluth City Code 8-9.
  7. Pursuant to Section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for a first offense is a \$500.00 civil penalty.
  8. Section 8-9(c) provides that "No portion of the payment of a civil penalty or period of suspension may be stayed or excused. All civil penalties are due and payable -within 30 days of council action. The council shall determine the dates any suspension shall be served, but in no event may the suspension period commence earlier than ten days after council action."
  9. Records supporting these findings of fact are attached to the enclosed Notice of Hearing as City document numbers 1-2.

### **CONCLUSIONS**

Based upon these facts, the Commission makes the following conclusions:

1. An employee of Licensee sold alcoholic beverages on the premises to two persons under the age of 21 at approximately 4:00pm on Thursday, July 27, 2019 in violation of Duluth City Code Section 8-28 (*Sales to minors prohibited*).
2. The Licensee is liable for this violation pursuant to Duluth City Code Section 8-35 (*Licensee liable for unauthorized sales*).
3. This is the Licensee's first violations for purposes of the presumptive penalty schedule provided for in Duluth City Code 8-9.
4. Pursuant to Duluth City Code Section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for a first offense is a \$500.00 civil penalty.
5. There are no aggravating or mitigating circumstances.

**RECOMMENDATION**

It is the recommendation of the Duluth Alcohol, Gambling and Tobacco Commission that the Duluth City Council find:

1. a first violation occurred; and
2. impose a \$500 fine payable within 30 days of final City Council action.

Dated: 9-13-19

**CITY OF DULUTH ALCOHOL,  
GAMBLING AND TOBACCO  
COMMISSION**

By: Patricia Stolee  
Patricia Stolee, President