TO: Mayor and City Council Members

SUBJECT: Appeal from an order of the Chief of Police to reclassify Local Liquor License of Loco Joes LLC at 417 E Douglas – District I

INITIATED BY: Wichita Police Department

AGENDA: Unfinished Business

Recommendation: Conduct a hearing on the appeal regarding the reclassification of license for Loco Joes LLC, 417 E Douglas from that of Drinking Establishment Restaurant to a Drinking Establishment.

Background: City ordinance defines a Drinking Establishment/Restaurant (DER) as a business that is open to the general public, sells liquor by the individual drink and meets one of the following requirements: The business shall derive not less than 50% of its gross revenues from sales of food and beverages for consumption on such premises in a six-month period; or such business shall derive not less than 30% of its gross revenues from sales of food and beverages for consumption on such premises in a six-month period and shall have not less than 70% of the public assembly area of the licensed premises devoted to designated seating for the service of food for consumption on the licensed premises. (See Wichita City Ordinance/Section 4.04.010(t)) Minors under the age of 21 years are allowed on the premises of a DE/R but cannot consume alcohol. Any establishment not meeting the above food sales and seating space criteria is classified and licensed as a Drinking Establishment (DE), and minors under the age of 21 years are prohibited from entering or remaining on the premises.

The City Code also provides that a business licensed as a DE/R maybe reclassified as a DE in the event that the business fails to meet food sales or seating space criteria. Wichita City Ordinance/Section 4.16.095 (c) authorizes the Chief of Police to reclassify any DE/R as a DE if the establishment “fails to provide information showing either the required amount of gross revenues from sales of food or the percentage of floor space devoted to the designated seating according to the floor plan, and the service of food for consumption on the licensed premise”. Subsection 4.16.095 (d) of the City Code provides that an order of reclassification issued by the Chief of Police may be appealed to the City Council within seven days from the date of the order. An appeal from the Chief’s order to the City Council stays the order of reclassification until the Council resolves the matter.

Analysis: Loco Joes LLC, located at 417 E Douglas, has been licensed as a DE/R since 10 August 2007. On 29 March 2008 Wichita Police Department Detectives served Mr. Joe Bidwell the owner of Loco Joes LLC with a letter requesting information showing that the establishment was in compliance with Section 4.04.010 (t) regarding percentage of food sales. A list requesting specific information necessary for the audit of Loco Joes LLC revenues was attached. As of 11 April 2008 Detective Quinn has yet to receive the audit information requested.
On 18 April 2008 Chief Williams sent a letter to Mr. Joe Bidwell, the licensee for Loco Joes LLC informing him that the establishment was being reclassified to a DE, due to failure to comply with City ordinance 4.04.010 (t).

Council action was delayed on the reclassification for two weeks from their 03 June 2008 meeting to provide Mr Joe Bidwell time to complete a working kitchen. Detective Quinn returned to the business 19 June 2008 & was to meet Mr Joe Bidwell who failed to arrive for the inspection. Detective Quinn upon looking at the kitchen noticed a cook top and deep fryer that were inoperable at the time of inspection. There was not a refrigerator present that was to be used to store food.

**Financial Consideration:** None

**Legal Consideration:** If the City Council upholds the decision of the Chief, the licensee has the further option of appealing to the district court, pursuant to state statute. Such an appeal would not stay the order of reclassification.

**Goal Impact:** Provide a safe and secure environment by enforcing City Ordinances regarding liquor licenses and drinking establishments.

**Recommendation/Action:** Conduct a hearing of the licensee’s appeal and issued an order either upholding or overturning the same.