

City Council Agenda Memo

From: Bonnie Foster, City Clerk, and Steve Britzman, City Attorney

Council Meeting: June 27, 2023 / July 11, 2023 / July 25, 2023

Subject: Ordinance 23-020: establishing the number of Video Lottery Machine Placements

Presenter: Bonnie Foster, City Clerk, and Steve Britzman, City Attorney

Summary:

This Ordinance will provide the City of Brookings the ability to establish the number of video lottery machine placements in the City of Brookings.

Excerpt from July 11, 2023 City Council Minutes: "Ordinance 23-020. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Ordinance 23-020, an Ordinance Establishing the Number of Video Lottery Machine Placements in the City of Brookings, SD, be approved. A motion was made by Council Member Avery, seconded by Council Member Rasmussen, to amend Ordinance 23-020 and increase the number of authorizations to 30, from the stated 27. The motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen. A friendly amendment was made by Council Member Tilton Byrne and accepted by Council Members Avery and Rasmussen to increase the population limit to 26,377. On the main motion, as amended, the motion carried by the following vote: Yes: 7 - Niemeyer, Wendell, Avery, Tilton Byrne, Specker, Doran, and Rasmussen. Due to substantial changes to Ordinance 23-020, a third reading and action will be held at the July 25th City Council Meeting."

Background:

Video Lottery SDCL regulations very closely follow SDCL alcohol regulations. Only on-sale alcohol license holders are eligible for video lottery placement within their business. (SDCL 42-7A1(6) / 42-7A-37.1) The number of on-sale alcohol licenses a municipality can issue is stated in SDCL Chapter 35.

Several South Dakota municipalities have enacted ordinances to limit the number of video lottery authorizations based on a municipality's population. City Attorney Steve Britzman drafted this Ordinance.

A municipality must use the criteria stated in SDCL Chapter 42 to authorize video lottery machine placement in establishments issued an on-sale alcoholic beverage license.

The criteria are:

1. The number of establishments currently licensed for video lottery;

2. The proximity of the business to other establishments licensed for video lottery;
3. The type of business and manner in which the applicant proposes to operate it;
4. The location of the business in relation to other businesses, residential areas, or activities within the same general area;
5. The extent to which minors frequent a business connected to the one proposed; and
6. The effect the proposed business has on economic development.

An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section (SDCL 42-7A-64).

Item Details:

This Ordinance will allow the City to regulate video lottery by population. The Ordinance grants 30 authorizations for video lottery machines for the first 26,377 population. This will allow the current 27 on-sale malt license holders and on-sale wine license holders to maintain their existing active video lottery options, and provide 3 additional authorizations before implementing the Ordinance restrictions based upon population.

One authorization for video lottery placement may be granted for each additional 1,000 of population. Population is equal to the population estimates published by the United States Census Bureau for each even-numbered year, except for the decennial year. For a decennial, year, population is equal to the amount determined by the decennial Federal Census.

Legal Consideration:

City Attorney Steve Britzman drafted the Ordinance.

Strategic Plan Consideration:

Sustainability and Economic Development: Establishing a population limit on video lottery machine placement will aid in the City's quality of life, and provide for economic development as the City's population grows.

Financial Consideration:

None.

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Move the item to a Study Session
5. Discuss / take no action / table

Staff recommends Council adopt an ordinance as desired.

Supporting Documentation:
Ordinance